

of pension to William W. Gilbert—to the Committee on Invalid Pensions.

By Mr. WARNOCK: A bill (H. R. 14917) to give credit to Jacob Parrott for receiving the first medal of honor for services in our late civil war—to the Committee on Military Affairs.

By Mr. HILDEBRANT: A resolution (H. Res. 288) to pay E. G. Johnson for services in caring for and regulating the House chronometer—to the Committee on Accounts.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. BALL: Sundry petitions of various posts of the Grand Army of the Republic in the States of Colorado, Connecticut, Florida, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Minnesota, Montana, Massachusetts, Michigan, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, Ohio, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Wisconsin, Washington, West Virginia, Wyoming, and Oklahoma Territory for the passage of House bill 13986 to modify and simplify the pension laws—to the Committee on Invalid Pensions.

By Mr. BEIDLER: Papers to accompany House bill to amend the record of John Rohrer—to the Committee on Naval Affairs.

Also, resolutions of Liquor Dealers' Benevolent and Protective Association of Cleveland, Ohio, favoring House bills 178 and 179, for reduction of tax on liquor—to the Committee on Ways and Means.

Also, resolutions of St. Patrick's congregation, of Cleveland, Ohio, protesting against the administration of affairs in the Philippines, especially against the disregard of the Catholic faith and institutions of the people—to the Committee on Insular Affairs.

By Mr. BURKETT: Petitions of citizens and old soldiers of Kearney, Nebr.; Lime Creek, Piedmont, Everton, and Gainsville, Mo.; Sylvia, Ark., and citizens of the State of Kansas, in favor of the passage of House bill 7475, for additional homesteads—to the Committee on the Public Lands.

Also, resolutions of the executive council of the Bankers' Association of Nebraska, in opposition to the so-called branch banking bill—to the Committee on Banking and Currency.

By Mr. DALZELL: Papers relative to continuing and compiling the House reports from the Forty-sixth to the Fifty-sixth Congresses—to the Committee on Printing.

By Mr. FOSS: Petitions of Turn Gemeinds Verein and Sozialer Turn Verein, of Chicago, Ill., in relation to House bill 12199—to the Committee on Immigration and Naturalization.

By Mr. HANBURY: Resolutions of Electrical Workers' Brotherhood No. 3, of New York City, indorsing House bill 6279, to increase the pay of letter carriers—to the Committee on the Post-Office and Post-Roads.

By Mr. HITT: Memorial of Mr. Jefferson Chandler, asking for the purchase by the Government of the buildings and contents known as the "Halls of the Ancients," in the city of Washington, D. C.—to the Committee on the Library.

By Mr. HOWELL: Petition of fire commissioners of Hoboken, N. J., favoring the passage of House bill 6279, to increase the pay of letter carriers—to the Committee on the Post-Office and Post-Roads.

By Mr. JACKSON of Kansas: Resolutions of the Industrial Council of Pittsburg, Kans., favoring the passage of the Grosvenor anti-injunction bill—to the Committee on the Judiciary.

By Mr. KAHN: Resolutions of Brotherhood of Carpenters and Joiners' Union No. 304, of San Francisco, Cal., in relation to the Boer war—to the Committee on Foreign Affairs.

By Mr. LESSLER (by request): Papers to accompany House bill for the relief of Ann M. King—to the Committee on Claims.

By Mr. LITTLE: Papers to accompany House bill 14852, granting an increase of pension to Melvina Dunlap—to the Committee on Pensions.

By Mr. McCLELLAN: Petition of citizens of New York City, in favor of the passage of House bill 12203—to the Committee on Invalid Pensions.

By Mr. MORRIS: Resolutions of Willis A. Gorman Post, No. 13, of Duluth; Wallace T. Rines Post, No. 143, of Princeton, and Buzzell Post, No. 24, of Annandale, Grand Army of the Republic, Department of Minnesota, favoring House bill 3067, relating to pensions—to the Committee on Invalid Pensions.

By Mr. RHEA of Virginia: Papers to accompany bill for the relief of Leander J. Keller—to the Committee on War Claims.

By Mr. RUSSELL: Resolution of Men's Assembly of the Methodist Episcopal Church of Middletown, Conn., in favor of reciprocal commercial relations with Cuba—to the Committee on Ways and Means.

By Mr. RYAN: Resolutions of the General Society of the Sons of the Revolution, favoring the erection of a statue to the late Brigadier-General Count Pulaski at Washington—to the Committee on the Library.

By Mr. SCOTT: Resolutions of the Industrial Council of Pittsburg, Kans., favoring the passage of the Grosvenor anti-injunction bill—to the Committee on the Judiciary.

Also, resolutions of National Business League of Chicago, Ill., favoring the establishment of a department of commerce and industries—to the Committee on Interstate and Foreign Commerce.

By Mr. HENRY C. SMITH: Resolutions of Welch Post, No. 137, Grand Army of the Republic, Department of Michigan, favoring the passage of House bills 12203 and 12204—to the Committee on Invalid Pensions.

By Mr. SPERRY: Resolutions of the Men's Assembly of the Methodist Episcopal Church of Middletown, Conn., for reciprocal trade relations with Cuba—to the Committee on Ways and Means.

SENATE.

THURSDAY, June 5, 1902.

Prayer by Rev. F. J. PRETTYMAN, of the city of Washington. The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. GALLINGER, and by unanimous consent, the further reading was dispensed with.

The PRESIDENT pro tempore. Without objection, the Journal will stand approved.

CHANNELS AT NAVY-YARDS ON PACIFIC COAST.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Navy, transmitting, in response to a resolution of the 22d ultimo, certain information from the Chiefs of the Bureaus of Yards and Docks and Navigation, relative to the depth of water at different places, at low tide, in the channel leading from the sea to the Mare Island Navy-Yard, etc.; which was referred to the Committee on Naval Affairs, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had agreed to the reports of the committees of conference on the disagreeing votes of the two Houses on the amendments of the House to the following bills:

A bill (S. 4071) granting an increase of pension to George C. Tillman; and

A bill (S. 4927) granting an increase of pension to Hattie M. Whitney.

PETITIONS AND MEMORIALS.

Mr. FOSTER of Washington presented a memorial of the Western Central Labor Union, American Federation of Labor, of Seattle, Wash., remonstrating against the enactment of legislation to maintain the gold standard, to provide an elastic currency, to equalize the rates of interest throughout the country, etc.; which was referred to the Committee on Finance.

Mr. FORAKER presented petitions of the Liquor Dealers' Benevolent and Protective Association of Cleveland, of the Chamber of Commerce of Cincinnati, and of 10 citizens of Cincinnati, all in the State of Ohio, praying for the adoption of certain amendments to the internal-revenue laws relative to the tax on distilled spirits; which were referred to the Committee on Finance.

He also presented a resolution adopted at a meeting of the Turngemeinde of Dayton, Ohio, expressing sympathy with the people of the South African Republic and the Orange Free State; which was referred to the Committee on Foreign Relations.

He also presented petitions of the Trades and Labor Assembly of Masillon; of the Central Labor Council, of Cincinnati, and of the Central Trades and Labor Council, of Zanesville, all of the American Federation of Labor, in the State of Ohio, praying for the enactment of legislation to increase the salaries of letter carriers; which were referred to the Committee on Post-Offices and Post-Roads.

He also presented petitions of the Woman's Christian Temperance Union of Huron County; of the Young People's Society of Christian Endeavor of Greenwich, and of sundry citizens of Peru, Norwalk, Wellington, and North Fairfield, all in the State of Ohio, praying for the adoption of certain amendments to the so-called anticaniteen law; which were referred to the Committee on Military Affairs.

Mr. CULLOM presented a petition of the D. Rothschilds Grain Company and sundry other business firms of Peoria, Ill., and the petition of W. O. Potter and 93 other citizens of Williamson County, Ill., praying for a reduction of the tax on distilled liquors; which were referred to the Committee on Finance.

He also presented a petition of Lodge No. 24, Brotherhood of Railroad Trainmen, of Galesburg, Ill., praying for the passage of the so-called Grosvenor anti-injunction bill; which was ordered to lie on the table.

Mr. McCUMBER presented petitions of the Minnesota Total Abstinence Association, praying for the enactment of legislation to prohibit the sale of liquors at immigrant stations and in all Government buildings; which were referred to the Committee on Public Buildings and Grounds.

Mr. MITCHELL presented a petition of the Chamber of Commerce, of Portland, Oreg., praying for the enactment of legislation granting pensions to certain officers and enlisted men of the Life-Saving Service, and to their widows and minor children; which was referred to the Committee on Pensions.

Mr. FRYE presented a petition of Washington Council, No. 9, Junior Order of United American Mechanics, of Springvale, Me., praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigration.

He also presented a petition of the Municipal Board of San Juan, P. R., praying for the adoption of an amendment to section 3 of the joint resolution of Congress approved May 1, 1900, relative to the number of acres of land that may be owned and managed by companies operating in that country; which was referred to the Committee on Pacific Islands and Porto Rico.

REPORTS OF COMMITTEES.

Mr. BERRY, from the Committee on Commerce, to whom was referred the bill (S. 5906) declaring the Osage River to be not a navigable stream above the point where the line between the counties of Benton and St. Clair crosses said river, reported it without amendment, and submitted a report thereon.

Mr. GALLINGER, from the Committee on Commerce, to whom was referred the bill (H. R. 11657) allowing the construction of a dam across the St. Lawrence River, reported it without amendment, and submitted a report thereon.

He also, from the Committee on Pensions, to whom was referred the bill (S. 2283) granting an increase of pension to William F. Angevine, reported it with amendments, and submitted a report thereon.

He also, from the same committee, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 12774) granting an increase of pension to John M. Brown;

A bill (H. R. 8109) granting an increase of pension to William H. McCarter; and

A bill (H. R. 14359) granting a pension to Luther G. Edwards.

Mr. NELSON, from the Committee on Commerce, to whom was referred the bill (S. 5865) providing for the drainage of Lake Traverse, lying on and along the boundary line between the States of Minnesota and South Dakota, and to prevent the overflow of the waters of the Red River of the North, reported adversely thereon; and the bill was postponed indefinitely.

Mr. HANNA, from the Committee on Commerce, to whom was referred the bill (H. R. 12085) providing for the completion of a light and fog-signal station in the Patapsco River, Maryland, reported it without amendment.

Mr. McMILLAN, from the Committee on the District of Columbia, to whom were referred the following bills, reported them each with amendments and submitted reports thereon:

A bill (H. R. 11400) to amend an act entitled "An act in relation to taxes and tax sales in the District of Columbia," approved February 28, 1898; and

A bill (H. R. 14050) to amend an act to regulate the height of buildings in the District of Columbia.

Mr. McMILLAN, from the Committee on the District of Columbia, to whom was referred the bill (S. 3900) to amend an act entitled "An act to provide for the appointment of a sealer and assistant sealer of weights and measures in the District of Columbia, and for other purposes," approved March 2, 1895, reported it without amendment and submitted a report thereon.

He also, from the same committee, to whom were referred the following bills and joint resolution, reported adversely thereon, and they were postponed indefinitely:

A bill (S. 5495) to amend an act entitled "An act to regulate the height of buildings in the District of Columbia," approved March 1, 1899;

A bill (S. 5671) to regulate the height of buildings in the District of Columbia; and

A joint resolution (S. R. 72) to regulate the height of buildings on residence streets in the District of Columbia.

Mr. BURROWS, from the Committee on Military Affairs, to whom was referred the bill (S. 4426) to authorize the Secretary of War to loan arms to the institutions having companies of the Boys' Brigade connected therewith, reported it without amendment, and submitted a report thereon.

ASSISTANT CLERK TO COMMITTEE ON MILITARY AFFAIRS.

Mr. JONES of Nevada, from the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred the resolution submitted by Mr. PROCTOR on the 22d ultimo, reported it without amendment, and it was considered by unanimous consent and agreed to, as follows:

Resolved, That the Committee on Military Affairs of the Senate is hereby authorized to appoint an assistant clerk at the compensation of \$1,440 per annum, to be paid from the contingent fund of the Senate until otherwise provided by law.

BILLS INTRODUCED.

Mr. BERRY introduced a bill (S. 6071) granting an increase of pension to Mary Manes; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. FORAKER introduced a bill (S. 6072) granting an increase of pension to Jacob M. Zarman; which was read twice by its title, and, with an accompanying paper, referred to the Committee on Pensions.

Mr. McLAURIN of Mississippi introduced a bill (S. 6073) for the relief of the heirs of Lewis Cato, deceased; which was read twice by its title, and referred to the Committee on Claims.

Mr. McMILLAN introduced a bill (S. 6074) for the extension of Erie street, and for other purposes; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. MITCHELL introduced a bill (S. 6075) granting an increase of pension to John F. Oviatt; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

He also introduced a bill (S. 6076) to remove the charge of desertion from the record of James H. Lappeus; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Military Affairs.

Mr. TELLER introduced a bill (S. 6077) granting an increase of pension to Wilson E. Davis; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. HAWLEY introduced a bill (S. 6078) granting an increase of pension to Joseph J. Fry; which was read twice by its title, and referred to the Committee on Pensions.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. NELSON submitted an amendment authorizing the United States consul at Odessa, Russia, to receive the same salary for the fiscal year 1903 as he is receiving for the fiscal year 1902, intended to be proposed by him to the general deficiency appropriation bill; which was referred to the Committee on Foreign Relations, and ordered to be printed.

Mr. McMILLAN submitted an amendment proposing to appropriate \$5,000 for the opening, grading, and regulating of Quincy street NW., from Twenty-ninth street to Pierce Mill road, intended to be proposed by him to the District of Columbia appropriation bill; which was referred to the Committee on the District of Columbia, and ordered to be printed.

He also submitted an amendment proposing to appropriate \$5,000 for the construction of a warden's dwelling at the District jail, intended to be proposed by him to the District of Columbia appropriation bill; which was referred to the Committee on the District of Columbia, and ordered to be printed.

MARE ISLAND NAVY-YARD.

Mr. HALE. I submit an amendment intended to be proposed to the naval appropriation bill. I ask that it be read, referred to the Committee on Naval Affairs, and printed.

The amendment was read, referred to the Committee on Naval Affairs, and ordered to be printed, as follows:

Amendment intended to be proposed by Mr. HALE to the bill (H. R. 14046) making appropriations for the naval service for the fiscal year ending June 30, 1903, and for other purposes, viz: Insert the following:

Whereas the United States navy-yard at Mare Island, Cal., is situate remote from the seashore and can only be approached by the smaller vessels of the United States Navy, no battle ship ever having been sent to the yard; and

Whereas large sums of money have been expended by the United States in attempts to dredge the channel of said yard, a large part of such work having been made useless by the refilling of the channel through natural deposits; and

Whereas property of the Government of great value has been lately destroyed and needs to be replaced: Therefore

The Secretary of the Navy is hereby directed to appoint a commission of three persons, consisting of one officer of the Engineer Corps of the Army, one officer of the Civil Engineer Corps of the Navy, and one experienced and expert civil engineer from civil life, whose duty it shall be to examine the situation at said navy-yard, the channel leading from the sea thereto, and further to examine the shores of the bay of San Francisco and the waters nearly adjacent thereto, for the purpose of selecting a suitable site, having ample deep water, for the purpose of establishing at such place a new United States navy-yard, to which, in due time, all Government property now in the Mare Island Navy-Yard shall be moved, so far as the same shall be practicable; said commission shall report to the Secretary of the Navy the full results of their examinations and a full description of the site selected for a new navy-yard, which report shall be transmitted to Congress at its next session, with any recommendations thereon that the Secretary of the Navy may see fit to make.

ASSISTANT CLERK TO COMMITTEE ON PRIVILEGES AND ELECTIONS.

Mr. BURROWS submitted the following resolution; which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Committee on Privileges and Elections be, and it is hereby, authorized to employ an assistant clerk, to be paid from the miscellaneous items of the contingent fund of the Senate at the rate of \$1,440 per annum until otherwise provided by law.

JUDICIAL DISTRICT OF ALASKA.

Mr. SIMON. I am directed by the Committee on the Judiciary to request the Senate for the present consideration of the bill (H. R. 11599) to redivide the district of Alaska into three recording and judicial divisions. It is a bill which was prepared by the Department of Justice, and it is a matter of some importance. It will require but a moment to dispose of it.

The PRESIDENT pro tempore. The bill was read on a former day in the Senate. Is there objection to its present consideration?

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WACCAMAW RIVER BRIDGE.

Mr. BERRY. I should like unanimous consent to consider at this time the bill (H. R. 14380) to authorize the construction of a bridge across Waccamaw River at Conway, in the State of South Carolina, by Conway and Seashore Railroad Company.

The Secretary read the bill; and by unanimous consent the Senate as in Committee of the Whole proceeded to its consideration.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOHN W. CRAINE.

Mr. GALLINGER. I ask consent for the present consideration of the bill (S. 6040) granting an increase of pension to John W. Craine. This is an urgent pension case, and I should like to have the bill go to the other House at once.

The Secretary read the bill; and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration. It proposes to place on the pension roll the name of John W. Craine, late of Company A, Eighth Regiment New Hampshire Volunteer Infantry, and to pay him a pension of \$30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

COLVILLE INDIAN RESERVATION LANDS.

Mr. FOSTER of Washington. I ask for the present consideration of the bill (H. R. 159) providing for free homesteads on the public lands for actual and bona-fide settlers in the north one-half of the Colville Indian Reservation, State of Washington, and reserving the public lands for that purpose.

Mr. WARREN. I shall not object to the request of the Senator from Washington, but when that bill is disposed of I shall ask the Senate to take up the Military Academy appropriation bill. I hope there will be no further bills called up until we can dispose of that measure.

The PRESIDENT pro tempore. The bill indicated by the Senator from Washington will be read.

The Secretary read the bill.

Mr. HALE. Mr. President—

Mr. STEWART. That bill will need some explanation, I think.

Mr. HALE. Yes.

Mr. STEWART. I do not understand it. It certainly will take time.

Mr. FOSTER of Washington. The bill provides for opening up of the north half of the Colville Reservation. The land—

Mr. STEWART. I understand something about the Colville Reservation.

Mr. FOSTER of Washington. The Government has never paid any money to come out of the Indian funds for the land.

Mr. STEWART. It is a reservation the Government opened without having a treaty ratified, and the law under which it was opened provided that as the lands were sold the proceeds should go to the Indians. Now the bill—

Mr. FOSTER of Washington. The Senator is mistaken. The law did not provide that the money should go to the Indians.

Mr. STEWART. For a certain time.

Mr. FOSTER of Washington. The land was opened to settlement and the money was to be covered into the General Treasury. The Indians never owned the land. These lands were set aside in 1872 by Executive order. Bands of Indians from the different tribes in the Northwest were roaming about over a great extent of territory and causing a great deal of trouble to the Govern-

ment. In order that they might be better looked after and controlled, it was thought best to confine them to a prescribed territory, and for this purpose an Executive order was issued setting apart certain lands upon which these Indians were to be placed. A mistake was made in the description of the boundaries, and this order was vacated and another one issued properly describing the limits of the Colville Reservation. The reservation, as originally located, covered about 3,000,000 acres of land. There were less than 2,000 Indians on the reservation.

In 1892 an act was passed providing for a survey of the north half of this reservation and making provision for allotting the lands to the Indians and opening up to settlement the unallotted lands. This act provided that the unallotted lands should go to homesteaders who were required to pay \$1.50 an acre for the land in addition to complying with the homestead laws; this money to be paid in three installments, the first one to be made within two years from date of entry. This act also provided that the money paid by the settlers should go into the public Treasury subject to appropriation by Congress for public use, but that until it was appropriated it might be used by the Secretary of the Interior for the education of the Indians. There was no liability to the Indians recognized and the money could at any time be appropriated by Congress for any purpose.

When the bill was passed in 1892 the Senate committee, in its report expressly stated that the Indians had no title to this land and that they occupied it simply by license of the Government, and that there was no obligation whatever upon the part of the Government to pay the Indians any sum for the land, and it was upon this basis and theory that the bill was passed.

These lands were opened to settlement under proclamation by the President October 10, 1900, and the first payment will come due this fall. The settlers upon many other reservations have been relieved from payment where the Government has actually paid money to the Indians for their lands or has agreed to pay them and it certainly is unjust that the settlers on this reservation in the State of Washington should be required to pay when the Government has not obligated itself to pay the Indians anything and has not paid them anything for the land while settlers upon reservations in other States have been relieved from a burden which the Government must bear. Every Indian, man, woman, and child has been allotted 80 acres of land, and, furthermore, in the south half of the reservation, which has not been opened to settlement, there are 1,500,000 acres of land remaining. This surely is enough for these Indians. The lands settled upon are semi-arid in character and the settlers at the best only make a living, and it would work very great hardship to require them to pay for their holdings. In fact, they can not make these payments, and I certainly think that the Senator from Nevada should not make any objection to the passage of this bill.

Mr. STEWART. There are a great many questions involved. The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

Mr. FOSTER of Washington. I should like to have the Senator from Arkansas [Mr. BERRY] make a statement about it.

Mr. STEWART. I do not think it can be explained in half an hour to my satisfaction.

Mr. BERRY. Mr. President—

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

Mr. QUAY. What is the bill?

The bill was read by title.

Mr. STEWART. Besides, I should like to have the Senator from Connecticut [Mr. PLATT] here. We have been considering this very matter at some length in the Committee on Indian Affairs.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

Mr. STEWART. I shall object.

The PRESIDENT pro tempore. Objection is made.

Mr. FOSTER of Washington. The bill retains its place?

The PRESIDENT pro tempore. It retains its place on the Calendar.

LONDON DOCK CHARGES.

Mr. WARREN. Mr. President—

Mr. NELSON. Will the Senator from Wyoming allow me just to give a notice?

Mr. WARREN. I yield to the Senator from Minnesota to give a notice.

Mr. NELSON. I desire to give notice that to-morrow, after the close of the routine business, I shall move to take up for consideration the bill (S. 1792) to amend an act entitled "An act relating to navigation of vessels, bills of lading, and to certain obligations, duties, and rights in connection with the carriage of property."

This is commonly known as the London dock clause bill. I shall ask the Senate to consider it from day to day prior to 2

o'clock, at the close of the morning business, without interfering with appropriation bills.

Mr. STEWART. I hope that notice will not interfere with the Choctaw and Chickasaw treaties, if I do not get them through to-day. I gave notice that I would attempt this morning to have them considered, but a large part of the time has already been spent on bills. It relates to tribes in the Indian Territory, and the Department is very anxious that the treaties shall be ratified. They are closing up that business, and action here is very important.

MILITARY ACADEMY APPROPRIATION BILL.

Mr. WARREN. I ask the Senate to take up the Military Academy appropriation bill, being House bill 13676.

The PRESIDENT pro tempore. The Senator from Wyoming moves that the Senate proceed to the consideration of the Military Academy appropriation bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 13676) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1903, and for other purposes.

Mr. WARREN. I will state that the Senator from Tennessee [Mr. BATE] had the floor when we discontinued the consideration of the bill yesterday. The bill is now up and we are ready for him to proceed.

Mr. BATE. Very well.

The PRESIDENT pro tempore. The Senator from Tennessee will proceed.

Mr. BATE. Mr. President, this is one of those bills in which all of us ought to take an interest. I am aware of the fact that the appropriation bills are generally left almost exclusively to the committee and that Senators generally who do not belong to the committee are not apt to give them that consideration which their merits require. I want to ask the Senators, such of them as are here, to look at this bill, on pages 29 and 30, and see the amendments there which seem to me, and some other members of the committee, to be objectionable, and determine if the committee shall be sustained.

This bill has been reported by the committee favorably, but the right was reserved to submit a minority report if desired. We have not seen fit to do that, but present objections to such points, under a motion to strike out, while the bill is under consideration in the Senate.

Now, the point of objection in this matter, so far as I am concerned, consists in the section of the bill beginning on page 29, which is a kind of addendum to the bill. The bill passed the House making the annual appropriation for the current expenses from the last of June to the end of the fiscal year, July 1, 1903. The bill was sent to the Senate and was considered by the Military Committee and favorably reported to the Senate.

This bill embodies an expenditure of six and one-half million dollars, something very extraordinary, which never occurred before in connection with the history of this institution.

By those who have done themselves the credit to investigate it as they ought, and to see what the various items are, it will be observed that the Academy has been well provided for by the House independent of this increased amount. All the appropriations have been made which were required for its proper conduct, for the payment of its professors, for the payment of the students—even an increase for that has been provided for. That appropriation for the next year's expenses has been liberal beyond measure—amounts, I think, to over \$800,000—and then, as an addendum to that, comes this House appropriation of five and one-half million dollars for the purpose of establishing a plant there, and which has been increased \$1,000,000 by the Senate committee, making six and one-half million dollars in addition to that liberal appropriation for next year's expenses.

Mr. WARREN. I know that the Senator does not want to be incorrect.

Mr. BATE. No; I do not.

Mr. WARREN. He will be incorrect if he states that the bill makes an appropriation of \$8,000,000.

Mr. BATE. I said six and one-half million dollars.

Mr. WARREN. I understood the Senator to say that that is in addition to the regular appropriations, which reach about \$8,000,000.

Mr. BATE. No; I said that this large item is independent of the annual appropriation. The expenditure for the current fiscal year, ending the 30th of June, is \$772,000. Now, there is a like amount and a little increase, perhaps making \$800,000, independent of the six and one-half millions. It is proposed now to give \$2,000,000 for this current year by way of commencing, and then winding up with four and one-half million dollars as it may be needed in order to complete the buildings, etc., making in all six and one-half million dollars, independent of the appropriation for the coming year. That is what I said. It does not make \$8,000,-

000, but it makes six and one-half million dollars, with the \$800,000 added thereto. The papers show that to be a correct statement.

The present Congress has been very liberal toward this institution, as has been the case in all preceding Congresses. It has, among other things, increased the compensation of those young cadets quite considerably with an additional ration. I have been unable to find any such item, by that name, in the last appropriation. I can not find any such appropriation in the preceding bill; but in this bill, in addition to the \$500 given to each one of the cadets, there is an allowance of 30 cents each day, and not only that, it is not to be paid out of the fund we appropriate here in the bill under consideration, but says it shall come out of the subsistence department independently of this bill.

We have, in this bill, increased the appropriations for the buildings and all that is needful connected therewith, making them more comfortable.

In the last year's bill there was also an increase of a considerable amount. There was an increase last year of \$46,000 for a south wing to the hospital, and for a two-story brick addition, \$4,200, and for enlarging the cadet mess hall, kitchen, and servants' quarters, to be immediately available, \$69,450. Then, after that, the total for building and grounds was \$258,150, as shown by the last year's appropriation bill, from which I read.

Now, these are enormous expenditures which the Government has incurred for the purpose of making this place what it ought to be, comfortable and attractive, and meets my approval, and, I believe, that of the country.

I want to see a splendid institution and, perhaps, without an equal anywhere, in its utility and attractiveness, but, Mr. President, I do not propose to be one who will forget all ideas of economy in this Government. Although it is said we have a surplus in the Treasury, yet, sir, it should be the duty of wise men to husband it, take care of it, and pay our debts with it, and not run wild in extravagance. Extravagance begets corruption. It has been said, and wisely said, that it is a misfortune for any country to have a surplus in its Treasury, and when I see such raids as this upon it I believe it is true, and that it is unfortunate to have a surplus in the Treasury, because it leads to extravagance, and extravagance to corruption.

There is not one observant and thoughtful man who does not see this extravagance demonstrated almost every day in the Congress of the United States. Such extravagance as we have had here of late years has never been equaled in this country, or perhaps in any other, and it is time for Senators, and all right thinking men to look into it narrowly and check it if we can. I know of no better place to begin than here and now.

What inspires all this extravagance of late years in the military line, and everything connected with the military? I do not know or pass upon the motive, but think I can foresee the general effect of it, and have no doubt that it tends to enlarge the standing Army and centralize power, and with this increase of the military will vanish the old volunteer. That is what it means, Mr. President, for although we have 70,000 men now under arms, there is not a volunteer in all that number. I fear he is already a thing of the past. He belongs to history and can not be taken from its pages. He has, to a large extent, made the military history of this country. Who was it who saved our Revolutionary war in its darkest hour and won victory at King's Mountain and other places? The volunteers of our country. Who was it that saved in 1812 our Northwest and Southwest country from the British and Indians but the volunteer?

Who was it, Mr. President, that won the Mexican war for our Government and won victory from the enemy at Monterey and Buena Vista but volunteers? Who made the wonderful march with General Scott to the very capital of the enemy in Mexico, with a few thousand men, but the volunteers? Sir, it was the volunteer force of this country, the men who enlisted through patriotic impulse, that gave it honor and glory.

I believe the only sure protection that this country has for its liberties lies not in your armored vessels, not in your military academies, but in the volunteer strength of the land. You may surround our coast with guns and line the seas with ironclads and dot every State with a military academy, yet, Mr. President, the real defense of this country, its glory, and its honor depend upon the spirit that inspires the volunteer when he enlists under the banner of his country. With him we are safe; without him we are not.

I mean no reflection upon the regulars, because they have demonstrated to the world their patriotism, courage, utility, and their genius. But I do object to legislating so that when war does come the volunteer shall be given back seats altogether and let all the officials come from military academies. The right to appoint regimental, company, and staff officers has been virtually taken away from the governors of States and lodged with the President. This is a movement toward centralization. It is indirectly giving power to the Army of the country, which is, I

think, objectionable to the vast majority of the people of the country.

That is one of the reasons, Mr. President, why I object to this wholesale appropriation of the public moneys for the purpose of increasing the military power beyond the necessity for it.

Mr. SPOONER. Will the Senator allow me to ask him a question?

Mr. BATE. Certainly.

Mr. SPOONER. I have not read the bill. I know that every Senator ought to have read it, but, as the Senator knows, we all can not do it. What are these appropriations for? What are the buildings? Is it proposed to enlarge to some extent buildings already existing?

Mr. BATE. Yes, sir; I understand so, and to improve the grounds and beautify the place and make it healthful.

Mr. WARREN. And to add very largely to the water supply.

Mr. BATE. Certainly. But I will ask the Senator from Wisconsin to remember that there has been a general increase and improvement upon the buildings there every year. If there was an appropriation proposed here of \$100,000 or \$200,000 toward that purpose, to increase by degrees the plant there, I would not object to it, but when it comes to inaugurating a plan to build an establishment there which will cost six and a half million dollars or five million dollars or four million dollars, I stand here to object to it.

Mr. SPOONER. I only asked for information.

Mr. BATE. And I sought to give it to the Senator as far as I could.

I believe I have answered the Senator's question, and will state to the Senate what my proposed amendment is. It is to strike out the section which contains the proposition to appropriate six and a half million dollars, beginning on page 29, after the words "five thousand dollars," in line 16, and striking out all down to the words "dollars per annum," in line 23, on page 30.

There is another proposition added to this item here in regard to the purchase of the island known as Constitution Island. That is a separate matter, independent of the \$6,000,000, authorizing the Secretary of War to purchase it by negotiation, and it is to be paid out of the Treasury of the United States. I do not object to that so much.

Mr. WARREN. I ask the Senator to look again and see if that is in addition to the appropriation of six million and a half. I do not so understand it.

Mr. BATE. I understand it so. I have not looked at it closely, but I meant to say I offer no objections to the purchase of Constitution Island, on Hudson River, opposite and near West Point, in order to prevent the erection of gambling and other objectionable houses in the immediate neighborhood of the Military Academy. I want every proper guard put around them, and I do not object to that. I think that is not intended to be paid out of the six million and a half dollars referred to in the bill. Certainly the section does not say so.

The paragraph which I propose to strike out, beginning, as I said, at page 29, line 17, reads as follows:

To increase the efficiency of the United States Military Academy at West Point, N. Y., and to provide for the enlargement of buildings and for other necessary works of improvement in connection therewith, and to provide—

This is an amendment of the Senate committee. And to provide—

for an increased water supply at a cost not to exceed \$100,000, made necessary by the increased number of cadets now authorized by law, immediately available and to remain so until expended, \$2,000,000.

That is the first installment.

Provided, That before any part of this amount is expended, except so much as may be necessary to provide an immediate increased water supply, to install a heating and lighting plant, and to complete the improvements begun on the cadet mess building, complete plans shall be prepared and approved by the Secretary of War, covering all necessary buildings and improvements at West Point, and for each and every purpose connected therewith, which plans shall involve a total expenditure of not more than \$5,500,000, including the sum herein appropriated:

That is what the House provided. The Senate committee amended it so as to read:

Six million five hundred thousand dollars, including the sum herein appropriated.

That means the \$2,000,000 already appropriated; including that and making it a part of the six million and a half.

Provided further, That after the preparation and approval of the plans herein provided, the Secretary of War is authorized to enter into a contract or contracts for any part or all of the improvements herein authorized within the said limit of cost, to be paid for from the appropriations annually made for this purpose.

It is not the sum, as I said, appropriated annually for this purpose.

Provided further, That the Secretary of War is hereby authorized to employ, in his discretion, a consulting architect, during the preparation of plans and the construction of buildings, at a compensation not exceeding \$5,000 per annum.

I propose to strike out that and to leave the bill with an appro-

priation amounting to nearly \$800,000, I think, between seven and eight hundred thousand dollars, for the Academy, for carrying it on as usual in all its departments and making it as comfortable as possible, to improve the buildings and increase their capacity if necessary, such as is provided for in the former part of the bill. I propose that the appropriation shall be all that is necessary, but I shall move that the appropriation of six and a half million dollars here mentioned be stricken out. That is the position I take in reference to this bill.

Now, Mr. President, we see that one of the reasons given for this proposition is the increase in the number of cadets. Some of us, especially those upon the Military Committee, will remember that one of the chief arguments made two years ago for the purpose of increasing the number of cadets was that there was surplus house room at West Point and the increase in number would require no additional buildings. Congress gave 2 at large from each State, making the number 90, and in addition to those the President had been authorized to appoint for several years 10 at large, as it is called. He was given authority to make additional appointments.

As you are aware, each Representative in Congress has a right to appoint one cadet; each member of the Senate has the right to appoint one. The number of appointments by the President was increased to 30 two years ago, and now this bill proposes to increase the authority of appointment by the President, making the number 40 instead of 30, as the law now stands.

I do not care about these things or as to the manner of the appointments made by the President, but I object to the constant increase of cadetships and the rapid increase of the military power at the expense of civil authority in this country, which certainly tends in the end to the destruction of the Volunteer Army. These young cadets have been well provided for in this bill, and among other things their pay has been increased.

Furthermore, I believe it increases the number of professors and favorably affects their rank, as that is what is meant by "assimilated rank." I do not think that is an objection, but I merely state it as showing that everything in the bill, where possible, seems to have been increased, and as showing the tendency to strengthen and build up such institutions and encourage the increase of the military power of the country by the expenditure of public money.

The taxpayers are the persons who are the sufferers for such unusual extravagance. We ought to have some regard for the people in the expenditure of their money. In the pending proposition and in other legislation it looks as if the taxpayers were entirely forgotten. Because we have a surplus in the Treasury we are continually making increased appropriations; every day they grow larger; and I think it time we should begin to decrease them.

Mr. President, here is another point. This six and a half million dollars proposed to be appropriated here does not include in any way whatever the annual expenditures to be made in the future. For the next year you will find another \$700,000 or \$800,000, or whatever it may be, appropriated as though the six and a half millions had not been set apart for the use and benefit of this Academy.

As I said, for the last ten years the appropriation has run from \$400,000 to five or six hundred thousand dollars annually, and up to \$700,000 in the last year. That includes the increase of the 90 men who have been appointed by Senators as cadets, and also the additional number that the President has appointed.

In the last appropriation act every possible convenience that was asked for at West Point was granted; and yet we are now asked to appropriate here six and one-half million dollars. I think that if Senators will look at the situation they will see that there is no necessity for it whatever, and that the cadets are now amply provided for.

The men at West Point are men that we well may be proud of, and we are proud of them and of their history. Mr. President, in the early days the institution was not half what it is now. Those young men had but little if any of this pocket money or but few of those little kindnesses which are now extended to the West Point cadets.

Not only so, but we have provided to pay the transportation of the young men who are selected for appointment at West Point; but no provision is made for the poor fellows who take the examination and fail, whilst the men who are selected have their transportation paid under this bill. From another fund is also paid the additional daily compensation of 30 cents. This other proposition to pay transportation from the Quartermaster-General's Department is also outside of this appropriation. So it is in addition an increase, according to the policy of this bill.

I make no complaint of that, however, but as to the bill in its present form I do complain and enter my protest against the appropriation of this six and a half million dollars, and I propose to strike out the provision for the appropriation of the six

and one-half million dollars. It is unnecessary now, and will have a tendency to destroy the rights and virtue of the volunteer and militia forces of the country.

Mr. President, if we should have a war—I hope we will have no more; I have seen enough of war, and I hope to see no more; I hope the day will come when we shall have universal peace and that our people will always be satisfied—but suppose a war was to break out and we wanted troops, the governors of the States, I suppose, could not, under existing law, appoint a single captain or colonel or a lieutenant or any staff officer.

A recent act of Congress lodged that power with the President, and I believe he exercises it in every instance. It is a long stride on the highway to the centralization of power. There is the keynote, in my opinion, of this whole legislation in regard to increasing the military strength in this country. It is a centralization of power, which is a danger that always menaces a country like ours. We should stand like a stone wall against this increase of centralized power and say, "Thus far shalt thou go and no farther."

I propose to enter my protest against this pending proposition, which seems to lead in that direction. I am willing we should say the cadets should have what they need, what is necessary, what is comfortable, and what is reasonable, but I am not willing that we shall give six and one-half million dollars of the people's money for the purpose of enlarging that establishment now.

Mr. WARREN. Mr. President, I do not want to take very much time, but after the remarks of the Senator from Tennessee [Mr. BATE] I think it necessary to say a few words about this appropriation.

The PRESIDENT pro tempore. The Chair understands the Senator from Tennessee to move to amend the bill.

Mr. BATE. Yes, sir; I wish to amend the bill, but have not yet formally made that motion.

The PRESIDENT pro tempore. It is too late to do so without reconsideration of the vote by which the amendments were ordered to be engrossed and the bill to be read a third time.

Mr. BATE. I asked at the time, Mr. President, that I should have the privilege of doing so; and I will now ask the Chair to put the motion which he has suggested as necessary in order to enable me to move an amendment.

The PRESIDENT pro tempore. Until that has been done, the bill is not in amendable condition. The Chair understands the Senator to make the motion for a reconsideration of those votes.

Mr. BATE. I do ask that the bill may be put into an amendable condition, so that I may move my amendment.

The PRESIDENT pro tempore. The Senator from Tennessee asks unanimous consent that the votes by which the amendments were ordered to be engrossed and the bill to be read a third time be reconsidered. Is there objection? The Chair hears none, and it is so ordered. Now the bill is in an amendable condition. The Senator from Tennessee will kindly state his amendment.

Mr. BATE. I now move to amend the bill by striking out on page 29, beginning with line 17, and going down to line 23, on page 30.

The PRESIDENT pro tempore. The question is on the amendment proposed by the Senator from Tennessee.

Mr. WARREN. Mr. President, the time has arrived, in the estimation of those connected with the Military Academy and the several Boards of Visitors to the Military Academy who have carefully looked over the situation there of late years, when there must be some comprehensive plan adopted regarding West Point. Shall we rebuild or shall we go on patching, making additions and patchwork, to be eventually torn away, as it certainly must be, and the place rebuilt later on at greater expense?

The Government has seen fit as to its Naval Academy to do exactly what is proposed to be done at West Point, only on a much more magnificent scale. If my memory serves me right, more than \$8,000,000 were used in rebuilding and improving the Academy and grounds at Annapolis, and this notwithstanding that there are only two-thirds or three-quarters as many cadets at Annapolis to provide for as are to be provided for at the Military Academy.

The conditions at the Military Academy are these: Some of the buildings were erected as long ago as 1816—perhaps before that. They are old; they are insanitary; they are worn out. The time has arrived when it is like pouring water into a rat hole to be appropriating hundreds of thousands of dollars to be expended in patchwork. So we propose in a systematic manner to mark out what shall be the future of West Point, putting no more money on those buildings that are unfitted for further service and building everything hereafter in a way to fit the general plan.

The present bill carries \$2,000,000 toward that reconstruction under a limit of total cost \$6,500,000. The House Military Committee reported the amount to the House at six and a half million dollars as the total limit upon the entire rebuilding, refitting, preparation of ground, and the final turning it out as a finished

institution, so that thereafter there might be no appropriations but the amounts of the regular supply bills. On the floor of the House the limit was cut down to five and a half million dollars.

Your subcommittee of the Committee on Military Affairs thought that it was better to restore the six and a half million dollars, and so reported to the general committee. The full committee agreed with the subcommittee that the bill should be reported to the Senate at six and a half million dollars; and it is my opinion that it will be better for the Senate to now pass it at six and a half million dollars and let it go to conference, so that in conference the House conferees may present their reasons to the Senate conferees for cutting the amount down and there may be a decision somewhere, along proper lines, at six and a half million dollars, or five and a half million dollars, or somewhere between the two amounts.

The conditions at West Point are such as the Senator would not like to have prevail if his son were there as a student, and such as I would not like to have if my son were there. At the present time there are in many cases three and even four cadets in one room, with one window and only one gaslight in the middle of the room. With the study and hard work which we know are incumbent upon the student if he is to succeed there, everyone will admit that to have a small room with four boys in it and but one small gaslight suspended from the ceiling is not the kind of convenience or comfort necessary to success and good health. We give our boys more than this at home, and we expect them to have more and better accommodations than that at any other school.

Again, the buildings are insanitary; they are without proper plumbing; they have not sufficient lighting or heating capacity; they have no bathrooms; they have no water; so that a student, sick or well, in the night or in the day, must go down and out of the building and over quite a long open space of open ground in order to get to a bathroom or to draw a bucket of water or to provide himself with any of those necessities which are provided in modern buildings.

It is desired to preserve all that is good of former West Point; but that portion which is insanitary, that portion which is in a tumbled-down condition is to be removed, and in time—it may be in one year or it may be in ten years—we shall, under this bill, rebuild and remodel West Point at a cost not to exceed in all six and a half million dollars.

The Senator from Tennessee finds fault with the increase of pay for the cadets. I want to ask the Senator what we have been doing all these years with the naval cadets?

Mr. BATE. I want to correct the Senator about that. I do not object to that increase. I am glad of it.

Mr. WARREN. I am very glad the Senator is.

Mr. BATE. I approve of that.

Mr. WARREN. I understand; but the Senator took up the provisions of the bill generally and read us a lecture on general extravagance and the necessity for economy, and he spoke, in passing, of the fact that we had increased the pay. We have reduced the pay, but made an increase in the way of an allowance of a ration, so that hereafter, if this bill passes unamended, the West Point cadets will get exactly what the naval cadets have been heretofore getting, nothing more and nothing less.

In the matter of hospital facilities they are crowded, inconvenient, and in a way insanitary, and if any of the cadets should be afflicted with some infectious disease, scarlet fever or something of that kind, there is no place provided in the way of an isolated ward or room.

The Senator speaks of the repairs authorized in the bill of last year. Sundry amounts were provided for repairs, it is true, but they were not nearly enough; so it is necessary that we shall provide this lump sum or else continue to appropriate for repairs a half million or a million dollars each year, and then when we are all through we shall have an aggregation of imperfect misfit buildings and accommodations instead of an entirely modern plant.

However, if I understood the Senator correctly, his main objection to this bill is that it tends toward an increase in the Army.

Mr. BATE. No; not the increase altogether; but such will be the tendency and final result.

Mr. WARREN. Perhaps it does not cut any figure in this debate, but I want to observe that the way to have a good army is to have plenty of educated officers. The American Army is the finest in the world. There is no army better and there never has been a better army than that of the United States.

I agree with the Senator that the Volunteer Army of America is a great and grand force; I will agree with him entirely in that observation. But the schoolmaster is oftentimes eventually excelled by the student. In fact, the student often arrives at a very much higher place than that ever reached by the schoolmaster who taught him; but this does not do away with the fact that the school-teacher is necessary, and that the student could not

have surpassed the schoolmaster if, in the first place, the student had not received the teaching. To have a good volunteer army we must have well-educated officers to educate that army.

In what condition are we to-day? When we called on the States for troops for the Spanish war, we were provided with volunteers who had been under instruction of United States Army officers at our agricultural colleges, our military academies, our private schools, and elsewhere. These young men had been taught by United States officers detailed to duty in those schools.

But later on every one of those teachers had to be withdrawn because of the necessities of the war, and we are in a situation to-day where we have not a sufficient number of officers for Regular Army uses, to say nothing of educational necessity; so that if in five years from now we should call upon the several States for militia or volunteers we would find quite a different state of affairs.

The excellence of our Volunteer Army comes from, first, the superior character of the men who compose the rank and file, from what there is in American citizenship, from what there is in American manhood; but, sir, in order to make an effective army we must have an educated army, and in order to have an educated army we must waste months, or even years, with the green material unless we have a sufficient number of educated military officers to act as teachers in the art or science of war. In the long run we must have the rank and file infiltrated with those who have received a good military education.

The Senator would strike out, by his amendment, the water supply at West Point. We find West Point dependent absolutely upon certain watersheds and certain ponds lying near. This land and water will never be cheaper, but, of course, will be higher; and they are absolutely without sufficient water to-day at West Point to provide for adequate drinking, cooking, and other domestic purposes. The Senator would strike out, by his amendment, the proposition to buy one or two of these watersheds adjacent to the grounds of the Academy, which must be had in order to have and sustain a military academy at that place.

There are certain appropriations in this bill for additions and repairs. Some of these may be used, even if we provide for rebuilding; others will not be used, although appropriated for. It was necessary in making up the bill on the part of the House to so provide that if the proposition of rebuilding should not be accepted they would not be without some fund to go on and provide room and pressing needs, so that they could in some way get along until a later day.

Now, the question arises, Mr. President, shall we to-day take up the matter of rebuilding West Point, or shall we go on and say that at some later time we had better do so, and in the meantime expend hundreds of thousands, nay, millions of dollars in patchwork and repairs upon the old buildings and then finally have to tear out and rebuild?

If the Senate concludes that six and a half million dollars is too much, it can make the amount five and a half millions. If five and a half millions is enough in the opinion of the conferees when they meet—and I take it the Senator from Tennessee will be one of such conferees—then I shall be satisfied. But it strikes me that it is an absolute necessity to provide now and at this time a sufficient appropriation and limit of cost to establish and commence at once a general and comprehensive plan of rebuilding and improving West Point.

Mr. BATE. Mr. President, in reply to and explanatory of some remarks made by the Senator from Wyoming [Mr. WARREN] who has just taken his seat, I beg to just simply read from the appropriation bill of last year. On the point in regard to bathing, etc., which we are considering, the provision found in the law of last year is:

For constructing a south wing to the hospital, to correspond with the present north wing, for the accommodation of the sick, to be built of stone, with brick annex for lavatories, baths, and water-closets, including cost of labor, plumbing, gas fittings, radiators, etc., \$45,000.

That we did last year for that very purpose; and not only so, but we provided:

For two-story brick addition (about 28 by 75 feet) to north end of cadet laundry, finished to correspond to main building, to be immediately available, \$4,200.

For adding second story of brick to 1-story addition, 15 by 28 feet (boiler room), on south end of main building, to be immediately available, \$1,000.

Mr. WARREN. If the Senator will allow me, that portion of the hospital which has been already provided for will be useful and will be used in future under this new plan.

The Senator forgets when he remarks that last year we provided for as many cadets as we are to have in the future that such is not strictly the case, because he will recall that there has been a redistricting under the last census and an increase in the number of Congressmen, and consequently an increase in the number of cadets. As a matter of fact, at the time of which he is speaking, when the small appropriations which he mentions were sufficient, we had but from 300 to 350 cadets, and now the number will reach

nearly 500 by the operation of laws already in force and amendments proposed in the pending bill.

Mr. BATE. I stated that there would be an additional number of cadets to those already there. There are members of Congress who are not yet elected, who will be, I suppose, elected next fall, some 13 or 15, or whatever the number may be, and there will be, consequently, that additional number of cadets at West Point. That is correct; and I stand corrected in that respect if I was in error in the statement I made.

But, Mr. President, the point I make is in regard to the great increase in the expense for West Point and for these buildings. What has become of the appropriation made last year for these objects, if we appropriated all the money which was then necessary, though it does seem that since then we may have increased the number of cadets a few?

Let me read further. I do not wish to be diverted from reading from the last year's appropriation bill:

For enlarging cadet mess hall, kitchen, and servants' quarters, to be immediately available—

How much do you suppose was appropriated for these purposes last year?

Sixty-nine thousand four hundred and fifty dollars.

Complaints are made that these young men have not sufficient comfort, and that two or three of them are placed in a room.

Mr. WARREN. Three or four.

Mr. BATE. I suppose that depends on the size of the room. Complaint is also made of insufficient light, and yet we find the following appropriation was made last year:

For wiring for electric lights for mess hall, kitchens, pantries, bakery, cold-storage rooms, dormitories, and for chandeliers, brackets, switches, and machinery, to be immediately available, \$2,500.

Then there was an appropriation:

For repairing and renewing plastering, painting, and calcimining, repairs to woodwork, reflooring, rearranging rooms, increasing sinks, baths, and for other incidental repairs to the building, \$10,000.

Then—

For removing and replacing the asphalt and galvanized-iron roofs and gutters of the Academy building by copper or other durable material, \$11,000.

That was also appropriated last year.

For rebuilding north dock, \$4,200.

For filling the ditches and leveling the parapets of the modern portion of Fort Clinton, to be immediately available, \$5,000.

The total money appropriated for buildings and grounds in the bill of last year was \$258,150.

It is impossible that we should give these additional amounts for the same purposes. As to the lack of bath houses at West Point my friend has made some complaint. I find this appropriation in the bill of this year now pending:

To increase the section room and lavatory facilities of the Academy building and furnish same, to be immediately available, \$10,894.

So it goes, Mr. President.

Mr. WARREN. Does the Senator think that \$10,000 for plumbing cuts much of a figure in a place where there are between 1,600 and 2,000 people altogether?

Mr. BATE. Where Congress has made an appropriation for the same purpose in the preceding year I do. It seems to me that with the appropriations heretofore made there ought to be no necessity for the appropriation of such a sum of money for the same purpose as is now proposed.

The Senator complains that the buildings at West Point are old buildings. They are large buildings; they are beautiful buildings; they have a reputation abroad, and I have seen, and the Senator has seen, pictures and photographs of those buildings distributed around this country, and they have even been sent to Europe. Those are pictures of West Point as it now is, and that institution has a reputation abroad.

Mr. WARREN. Mr. President, I thank the Senator for stating that, but I wish to say to him in that connection that all buildings such as he describes are to be preserved. I wish to say to him also that not only has West Point a reputation abroad, but it has been stated by many military leaders from all over the world that we have at West Point the best military academy in the world, the best institution of war learning known.

It seems to me, Mr. President, that a matter of four or five or six million dollars, spent perhaps during the remainder of the lifetime of the Senator from Tennessee and myself, is not too much to create or maintain a school that is the pride not only of this country, but of the entire civilized world.

Mr. BATE. We all have a pride in that institution, but it is not necessary to make this expenditure of six or eight million dollars. Those buildings are now beautiful in their present form, and I see no necessity for this expenditure.

Not only so, but West Point is much more beautiful now than it was a few years ago; it has many more conveniences now than it had a few years since, when such men as Grant and Lee and Johnston and Sherman, Bragg and Rosecrans, McClellan and

Schofield and others of national character were educated there and developing into the great characters they did. When they were taking their course at West Point the buildings there were good enough for them; you never heard any complaint, and no additional appropriations were then asked for.

Two years ago, when we passed the law giving authority for the appointment of additional cadets, the buildings were then supposed to be good enough, and it was distinctly stated—and it was one of the chief arguments used on this floor and in committee—that we had the buildings there at West Point; that there was a surplus of room; that it should be utilized, and that the institution should be filled up. We have filled it up pretty well, and now it is proposed that an additional appropriation of six and one-half million dollars shall be made.

Mr. HARRIS. Mr. President, I am somewhat surprised at the position taken by the senior Senator from Tennessee [Mr. BATE] in regard to these appropriations. So far as I am concerned, I have always looked upon West Point as one of the institutions of which we should be supremely proud. It has been the nursery of some of the most distinguished men in our military history. They have gone through a course there without complaining, enduring hardships that would be regarded as absolutely cruel now. But that is not any reason why these conditions should be continued. They were great men and received a magnificent education under many hardships and in spite of hardships, which were inexcusable then and are much more so now.

I want to see enough cadets graduated every year from West Point to keep the Army at least filled up in the lower ranks of its officers with educated men. We have not reached that point yet, but we will some day get to it. When you look at the Army Register you will be absolutely astonished to see how few West Pointers there are as subaltern officers. There are not half enough of them. So far as I am concerned, I should like to see at West Point a corps of cadets of a thousand men, so as to eventually fill up the ranks of the subaltern officers, and if there should be any surplus men with that magnificent training and education, let them go into civil life.

I have sometimes thought it would be a magnificent idea if we would follow the example which the State of Virginia inaugurated a good many years ago. She has built up a superb military school at Lexington, to which cadets receive appointments from each representative district and receive their tuition free of charge. In addition to that, cadets are permitted to enter and take the course, who pay the expenses of their tuition, and I do not see why that principle should not be adopted at West Point. I do not see why any brave, bright boy, who desires to have a first-class military education, should not be permitted to go to West Point and acquire that kind of a scientific education at his own expense and then take his place in the ranks of civil life. Such graduates would constitute a magnificent reserve force, and Virginia found that it was absolutely invaluable to her, and all through the South the influence of that kind of education at the Virginia Military Institute is felt.

I was at West Point two years ago and I was utterly astonished at the inadequacy of the quarters, at the insufficiency of the hospital accommodations, at the lack of sanitary regulations and provisions everywhere. There are some beautiful-looking buildings there, but they are small.

Mr. BATE. May I interrupt the Senator to ask if that is true why he did not put in this bill or the bill of last year a sufficient appropriation to correct that condition and to make it as it should be?

Mr. HARRIS. The Board of Visitors considered the matter very seriously, and a great deal was said and a great deal was urged as to the necessity for action at that time. But it was considered as better perhaps to try to get along, as far as possible, with the then existing accommodations, as we were then undergoing enormous expenses and it was not considered an advisable time to ask for additional appropriations.

But we did ask for enough last year to provide one additional ward in the hospital. We did ask for enough to enlarge the mess hall a little bit. We did ask for enough to replace the old academic building. The walls of the academic building were being stained by the snow and ice, which melted and ran down the walls and rendered the rooms absolutely unfit for use. We saw three or four cadets in a little, narrow, dark room. We saw that the cadets had to go, it seemed to me, a quarter of a mile to get a bucket of water. There was not a drop of water in the whole cadet building. There was not a closet of any kind in it. There were no conveniences. A first-class thoroughbred cattle barn would be luxurious in comparison with what the cadets had to submit to in that way.

I was then in favor of asking for additional appropriations so as to rebuild and to provide the new buildings with adequate sanitary and plumbing appliances, which are absolutely indispensable. The riding hall was insufficient. There is a tumble-

down old hotel on the ground there absolutely useless. The whole thing needs reconstruction and building up on modern and improved ideas. We might as well attempt to fight the wars of to-day with the old flint-lock muskets of 1812, and say our ancestors used those and fought bravely, and therefore we should not adopt modern ordnance.

We want magnificently educated officers and we ought to provide them with at least comfortable quarters in which to live. To quarter two cadets in a room is limited enough in accommodations, but to put four men in such a room is cruelty. There is one little drop light. The boys are poring over the desks, trying to study their lessons in the dark winter evenings of that climate. The surgeon himself told me it was the source of more diseases and trouble of the eye than anything else that could be imagined, and everywhere we saw cadets using spectacles who had gone there with absolutely sound and perfect eyesight, the eye trouble having been caused by the inadequate light. We saw cadets trotting across the campus to get a pitcher of water, and things of that kind. It was an absurdity. We need an adequate riding hall, as I have mentioned. That is one of the limitations. We need additional quarters. Let us build up West Point on the same kind of a plan that has been adopted for Annapolis, the twin magnificent school which we have in this country.

Mr. BATE. Mr. President, a word in reply. I know nothing about Annapolis, and therefore I can not speak of it. But I understand there were no buildings there at all scarcely until last year.

Mr. HARRIS. A great many distinguished men have been graduated there.

Mr. BATE. I am speaking of Annapolis.

Mr. HARRIS. Yes. We have had magnificent officers in the Navy from Annapolis.

Mr. BATE. Certainly; I am addressing myself to this point. The graduates of Annapolis have done wonders. I accord them all the credit they deserve. But, as to what the condition there is, I know not. However, if an error has been committed there, it is no reason why we should repeat it at West Point.

I do not want the Senator nor the country to understand that I am opposed to appropriating everything that is necessary absolutely to afford the convenience and facilities for study to young men as cadets at West Point. I said that in the commencement. I say it now. But the amount heretofore appropriated annually and the amount in the bill here now, independent of the \$6,000,000, is sufficient, and the only question is whether we shall virtually throw aside those old buildings and build up a new establishment to cost six and a half million dollars. That is the practical proposition.

The Senator from Kansas has been to West Point since I was there and may know about these matters. I have no doubt he speaks of them correctly. But there have been since he was there the appropriations made which I have read, \$89,000 in one instance, \$48,000 in another for the improvement of these buildings, \$5,000 in another for the building of additional rooms. I say if that has to go on every year, we had better stop and do something else.

I want to see the establishment increase. I do not object to an increase in a proper way, according to the increase of our population. I do not propose, though, for one, to let young men be educated at Government expense at West Point for the purpose of turning them loose when they are educated to go back into the civil ranks of the country. I think, sir, that the young men who would go there for that purpose should be educated by their own people and not by the general public. I think such education at Government expense is wrong, except for military purposes, as that is a military academy.

Mr. WARREN. Does not the Senator think it would be a good plan for every school or college where there is a military class to have a graduate of West Point as a teacher in military drill and tactics?

Mr. BATE. Certainly.

Mr. WARREN. That duty alone would take more than we graduate.

Mr. BATE. Very well. But you look at the number of those who have graduated at West Point and who are retired and are drawing three-fourths pay. They are the ones who ought to be assigned to that duty, and that would be justice and right to the taxpayers of this country and not unjust to those who have been educated by the Government and are now supported by it.

The PRESIDENT pro tempore. The question is on agreeing to the amendment proposed by the Senator from Tennessee [Mr. BATE].

The amendment was rejected.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

AGREEMENT WITH CHOCTAW AND CHICKASAW INDIANS.

Mr. STEWART. I move that the Senate proceed to the consideration of the bill (S. 4848) to ratify and confirm an agreement with the Choctaw and Chickasaw tribes of Indians, and for other purposes.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Indian Affairs with amendments.

Mr. STEWART. I ask unanimous consent that the formal reading of the bill be dispensed with, that the bill be read for amendment, and that the committee amendments be first acted upon in the reading of the bill.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Nevada? The Chair hears none, and it is so ordered.

The Secretary proceeded to read the bill.

The first amendment reported by the Committee on Indian Affairs was, on page 2, line 25, after the word "Atoka," to insert "Indian Territory;" so as to make the clause read:

4. The term "Atoka agreement" shall be held to mean the agreement made by the Commission to the Five Civilized Tribes with the commissioners representing the Choctaw and Chickasaw tribes of Indians at Atoka, Indian Territory.

The amendment was agreed to.

The next amendment was, on page 3, line 12, before the word "extend," to strike out "shall" and insert "may;" and in line 13, before the word "include," to strike out "shall" and insert "may;" so as to make the clause read:

7. Every word in this agreement importing the masculine gender may extend and be applied to females as well as males, and the use of the plural may include also the singular, and vice versa.

The amendment was agreed to.

The next amendment was, on page 5, line 3, before the word "shall," to strike out "tribe" and insert "tribes," so as to read:

12. Each member of said tribes shall, at the time of the selection of his allotment, designate as a homestead out of said allotment land equal in value to 100 acres of the average allottable land of the Choctaw and Chickasaw nations, as nearly as may be, which shall be inalienable during the lifetime of the allottee, not exceeding twenty-one years from the date of certificate of allotment, and separate certificate and patent shall issue for said homestead.

The amendment was agreed to.

The next amendment was, on page 5, line 13, before the word "exceeding," to strike out "nor" and insert "not," so as to make the clause read:

13. The allotment of each Choctaw and Chickasaw freedman shall be inalienable during the lifetime of the allottee, not exceeding twenty-one years from the date of certificate of allotment.

The amendment was agreed to.

The next amendment was, on page 5, line 18, after the word "regulations," to insert "and on terms;" so as to make the clause read:

14. When allotments as herein provided have been made to all citizens and freedmen, the residue of lands not herein reserved or otherwise disposed of, if any there be, shall be sold at public auction under rules and regulations and on terms to be prescribed by the Secretary of the Interior, and so much of the proceeds as may be necessary for equalizing allotments shall be used for that purpose, and the balance shall be paid into the Treasury of the United States to the credit of the Choctaws and Chickasaws and distributed per capita as other funds of the tribes.

The amendment was agreed to.

The next amendment was, on page 6, line 5, before the word "nor," to strike out "date of the patent" and insert "time at which said land may be alienated under this act;" so as to make the clause read:

15. Lands allotted to members and freedmen shall not be affected or encumbered by any deed, debt, or obligation of any character contracted prior to the time at which said land may be alienated under this act, nor shall said lands be sold except as herein provided.

The amendment was agreed to.

The next amendment was, on page 6, line 17, after the word "freedman," to insert "after thirty days' notice by the Commission, then;" so as to make the clause read:

17. If, for any reason, an allotment should not be selected or a homestead designated by, or on behalf of, any member or freedman after thirty days' notice by the Commission, then it shall be the duty of said Commission to make said selection and designation.

The amendment was agreed to.

The next amendment was, on page 6, line 23, after the word "than," to strike out "the smallest legal subdivision provided for in paragraph 11 hereof" and insert "10 acres;" so as to make the clause read:

18. In the making of allotments and in the designation of homesteads for members of said tribes, under the provisions of this agreement, said Commission shall not be required to divide lands into tracts of less than 10 acres.

The amendment was agreed to.

The next amendment was, on page 9, line 14, after the word "agent," to insert "at the;" and in line 17, after the word "to," to strike out "him" and insert "such allottee;" so as to make the clause read:

23. Allotment certificates issued by the Commission to the Five Civilized Tribes shall be conclusive evidence of the right of any allottee to the tract of land described therein; and the United States Indian agent at the Union

Agency shall, upon the application of the allottee, place him in possession of his allotment, and shall remove therefrom all persons objectionable to such allottee, and the acts of the Indian agent hereunder shall not be controlled by the writ or process of any court.

The amendment was agreed to.

The next amendment was, on page 10, line 3, after the word "in" to insert "both;" in the same line, before the word "Chickasaw," to insert "the;" in line 6, before the word "land," to strike out "said," and insert "the;" in the same line, after the word "office," to insert "in the nation in which his land is located;" in line 11, after the word "land," to strike out "office," and insert "offices;" in line 24, after the word "at," to insert "one;" in line 25, before the word "land," to strike out "the" and insert "said;" in the same line, before the word "and," where it occurs the first time, to strike out "office," and insert "offices;" so as to make the clause read:

After the opening of a land office for allotment purposes in both the Choctaw and the Chickasaw nations any citizen or freedman of either of said nation may appear before the Commission to the Five Civilized Tribes at the land office in the nation in which his land is located and make application for his allotment and for allotments for members of his family and for other persons for whom he is lawfully authorized to apply for allotments, including homesteads, and after the expiration of ninety days following the opening of such land offices any such applicant may make allegation that the land or any part of the land that he desires to have allotted is held by another citizen or person in excess of the amount of land to which said citizen or person is lawfully entitled, and that he desires to have said land allotted to him or members of his family as herein provided; and thereupon said Commission shall serve notice upon the person so alleged to be holding land in excess of the lawful amount to which he may be entitled, said notice to set forth the facts alleged and the name and post-office address of the person alleging the same, and the rights and consequences herein provided, and the person so alleged to be holding land contrary to law shall be allowed thirty days from the date of the service of said notice in which to appear at one of said land offices and to select his allotment.

The amendment was agreed to.

The next amendment was, on page 11, line 20, before the word "land," to strike out "the" and insert "said;" and in the same line, after the word "land," to strike out "office" and insert "offices;" so as to read:

If any citizen or freedman of the Choctaw and Chickasaw nations shall not have selected his allotment within twelve months after the date of the opening of said land offices in said nations, if not herein otherwise provided.

The amendment was agreed to.

The next amendment was, on page 14, line 13, after the word "located," to insert "when practicable;" so as to make the clause read:

And the acre so reserved for any church or school in any quarter section of land shall be located when practicable in a corner of such quarter section lying adjacent to the section line thereof.

The amendment was agreed to.

The next amendment was, on page 14, line 25, before the words "Indian Territory," to insert "the," and on page 15, line 4, after the word "is," to strike out "rights" and insert "right;" so as to make the clause read:

27. The rolls of the Choctaw and Chickasaw citizens and Choctaw and Chickasaw freedmen shall be made by the Commission to the Five Civilized Tribes, in strict compliance with the act of Congress approved June 28, 1898 (30 Stats., 495), and the act of Congress approved May 31, 1900 (31 Stats., 221), except as herein otherwise provided: *Provided*, That no person claiming right to enrollment and allotment and distribution of tribal property, by virtue of a judgment of the United States court in the Indian Territory under the act of June 10, 1896 (29 Stats., 321), and which right is contested by legal proceedings instituted under the provisions of this agreement, shall be enrolled or receive allotment of lands or distribution of tribal property until his right thereto has been finally determined.

The amendment was agreed to.

The next amendment was, on page 16, line 14, before the word "to," to strike out "Commissioner" and insert "Commission;" so as to make the clause read:

The rolls so prepared shall be made in quintuplicate, one to be deposited with the Secretary of the Interior, one with the Commissioner of Indian Affairs, one with the principal chief of the Choctaw Nation, one with the governor of the Chickasaw Nation, and one to remain with the Commission to the Five Civilized Tribes.

The amendment was agreed to.

The next amendment was, on page 16, after line 14, to strike out the following:

31. It being claimed and insisted by the Choctaw and Chickasaw nations that the United States courts in Indian Territory, acting under the act of Congress approved June 10, 1896, have admitted persons to citizenship, or to enrollment as such citizens, in the Choctaw and Chickasaw nations, respectively, without notice of the proceeding in such courts being given to each of said nations, and it being insisted by said nations that in such proceedings notice to each of said nations was indispensable, and it being claimed and insisted by said nations that the proceedings in the United States courts in Indian Territory, under the said act of June 10, 1896, should have been confined to a review of the action of the Commission to the Five Civilized Tribes, upon the papers and evidence submitted to such Commission, and should not have extended to a trial de novo of the question of citizenship; and it being desirable to finally determine these questions, the two nations jointly, or either of said nations acting separately and making the other a party defendant, may, within ninety days after this agreement becomes effective, by a bill in equity filed in the United States court for the southern or central district of Indian Territory, seek the annulment and vacation of all such decisions by said courts. Ten persons so admitted to citizenship or enrollment by said courts, with notice to one but not to both of said nations, shall be made defendants to said suit as representatives of the entire class of persons similarly situated, the number of such persons being too numerous to require all of

them to be made individual parties to the suit; but any person so situated may, upon his application, be made a party defendant to the suit.

32. Notice of the institution of said suit shall be personally served upon the chief executive of the defendant nation, if either nation be made a party defendant as aforesaid, and upon each of said ten representative defendants, and shall also be published for a period of four weeks in at least two weekly newspapers having general circulation in the Choctaw and Chickasaw nations. Such notice shall set forth the nature and prayer of the bill, with the time for answering the same, which shall not be less than thirty days after the last publication. Full jurisdiction and authority to entertain said suit and finally determine said questions are hereby conferred upon the court for said southern and central district, as may be elected by the two nations jointly or either of them acting separately, as aforesaid. Any party feeling aggrieved by the decision of said court may appeal directly to the Supreme Court of the United States within ninety days thereafter. Said suit shall take precedence on the dockets of both courts, and shall be determined at the earliest practicable time. Said suit shall be confined to a final determination of the question of law here named, and shall be without prejudice to the determination of any charge or claim that the admission of such persons to citizenship or enrollment by said United States courts in Indian Territory was wrongfully obtained as provided in the next section.

33. The United States courts of the southern and central districts in Indian Territory shall have full jurisdiction of suits to annul and vacate judgments of such courts under the act of Congress of June 10, 1896, admitting persons to citizenship or to enrollment as citizens in either of said nations where, in a bill of complaint filed by the two nations jointly or by one of them acting separately and making the other a party defendant, it is charged and made to reasonably appear that any such judgments, for any reason other than those specified in section 31 hereof, does an injustice to either of said nations by according citizenship or enrollment to any person or persons not justly entitled thereto; but no such suit can be instituted after the expiration of ninety days after the final decision of the test case provided for in section 31 hereof. All such suits shall take precedence upon the court docket, and shall be as speedily determined as may be consistent with due consideration of the rights of parties.

No judge shall sit in any cause instituted in this section wherein it is sought to vacate a judgment rendered by him, and in such instance some other judge who did not, under the act of June 10, 1896, render citizenship judgments against either of said nations, shall be called to preside over the proceedings in such suit, and shall be fully authorized to conduct the same to a conclusion. The decision of such court in any such suit shall be final, save that at any time in the progress thereof it shall be competent for the trial judge to certify to the court of appeals of the Indian Territory, for its advice and final determination, any question or questions of law arising in said cause, deemed by the trial judge to be difficult and important. In the determination of any questions so certified, such court of appeals shall be composed of the United States judges in the Indian Territory, who did not render any citizenship judgments against either of said nations under said act of June 10, 1896, and of one of the judges of the supreme court of the Territory of Oklahoma, designated for that purpose by the Attorney-General of the United States. Notice of the institution of any such suit shall be personally served upon the chief executive of the defendant nation, if either nation be made a party defendant, and shall be served upon the other defendants in the manner in which under the laws and practice controlling the courts in the Indian Territory service is made in real actions.

And to insert in lieu thereof the following:

31. It being claimed and insisted by the Choctaw and Chickasaw nations that the United States courts in Indian Territory, acting under the act of Congress approved June 10, 1896, have admitted persons to citizenship or to enrollment as such citizens, in the Choctaw and Chickasaw nations, respectively, without notice of the proceedings in such courts being given to each of said nations; and it being insisted by said nations that in such proceedings notice to each of said nations was indispensable, and it being claimed and insisted by said nations that the proceedings in the United States courts in Indian Territory, under the said act of June 10, 1896, should have been confined to a review of the action of the Commission to the Five Civilized Tribes, upon the papers and evidence submitted to such Commission, and should not have extended to a trial de novo of the question of citizenship; and it being desirable to finally determine these questions, the two nations jointly, or either of said nations acting separately and making the other a party defendant, may, within ninety days after this agreement becomes effective, by a bill in equity filed in the Choctaw and Chickasaw citizenship court hereinafter named, seek the annulment and vacation of all such decisions by said courts. Ten persons so admitted to citizenship or enrollment by said courts, with notice to one but not to both of said nations, shall be made defendants to said suit as representatives of the entire class of persons similarly situated, the number of such persons being too numerous to require all of them to be made individual parties to the suit; but any person so situated may, upon his application, be made a party defendant to the suit.

Notice of the institution of said suit shall be personally served upon the chief executive of the defendant nation, if either nation be made a party defendant as aforesaid, and upon each of said 10 representative defendants, and shall also be published for a period of four weeks in at least two weekly newspapers having general circulation in the Choctaw and Chickasaw nations. Such notice shall set forth the nature and prayer of the bill, with the time for answering the same, which shall not be less than thirty days after the last publication. Said suit shall be determined at the earliest practicable time, shall be confined to a final determination of the questions of law here named, and shall be without prejudice to the determination of any charge or claim that the admission of such persons to citizenship or enrollment by said United States courts in Indian Territory was wrongfully obtained as provided in the next section. In the event said citizenship judgments or decisions are annulled or vacated in the test suit hereinbefore authorized, because of either or both of the irregularities claimed and insisted upon by said nations as aforesaid, then the files, papers, and proceedings in any citizenship case in which the judgment or decision is so annulled or vacated shall, upon written application therefor made within ninety days thereafter by any party thereto who is thus deprived of a favorable judgment upon his claimed citizenship, be transferred and certified to said citizenship court by the court having custody and control of such files, papers, and proceedings, and upon the filing in such citizenship court of the files, papers, and proceedings in any such citizenship case, accompanied by due proof that notice in writing of the transfer and certification thereof has been given to the chief executive officer of each of said nations, said citizenship case shall be docketed in said citizenship court and such further proceeding shall be had therein in that court as ought to have been had in the court to which the same was taken on appeal from the Commission to the Five Civilized Tribes and as if no judgment or decision had been rendered therein.

32. Said citizenship court shall also, upon the final ratification of this agreement, have jurisdiction of suits to annul and vacate judgments of the courts in Indian Territory rendered under said act of Congress of June 10, 1896, admitting persons to citizenship or to enrollment as citizens in either of said nations where, in a bill of complaint filed by the two nations jointly

or by one of them acting separately and making the other a party defendant, it is charged and made to appear that any such judgment, for any reason other than those hereinbefore specified, as a basis for said test suit, does injustice to either of said nations by according citizenship or enrollment to any person or persons not justly entitled thereto, but no such suit can be instituted after the expiration of ninety days after the final decision in the test suit hereinbefore authorized. These suits shall be as speedily determined as may be consistent with due consideration of the rights of all parties, and notice of the commencement thereof shall be personally served upon the chief executive officer of the defendant nation, if either nation be made a party defendant, and shall be served upon the other defendants personally or by publication, as the case may be, in the manner in which, under the laws and practice controlling the circuit courts of the United States, service is made in suits to quiet title to real estate.

33. A court is hereby created, to be known as the Choctaw and Chickasaw citizenship court, the existence of which shall terminate upon the final determination of the suits and proceedings named in the last two preceding sections, but in no event later than the 31st day of December, 1903. Said court shall have all authority and power necessary to the hearing and determination of the suits and proceedings so committed to its jurisdiction, including the authority to issue and enforce all requisite writs, process, and orders, and to prescribe rules and regulations for the transaction of its business. It shall also have all the powers of a circuit court of the United States in compelling the production of books, papers, and documents, the attendance of witnesses, and in punishing contempt. Except where herein otherwise expressly provided, the pleadings, practice, and proceedings in said court shall conform, as near as may be, to the pleadings, practice, and proceedings in equity causes in the circuit courts of the United States. The testimony shall be taken in court or before one of the judges, so far as practicable. Each judge shall be authorized to grant, in vacation or recess, interlocutory orders and to hear and dispose of interlocutory motions not affecting the substantial merits of the case.

Said court shall have a chief judge and two associate judges, a clerk, a stenographer who shall be a deputy clerk, and a bailiff. The judges shall be appointed by the President, by and with the advice and consent of the Senate, and shall each receive a compensation of \$5,000 per annum, and his necessary and actual traveling and personal expenses while engaged in the performance of his duties. The clerk, stenographer, and bailiff shall be appointed by the judges, or a majority of them, and shall receive the following yearly compensation: Clerk, \$2,400; stenographer, \$1,200; bailiff, \$800. The compensation of all these officers shall be paid by the United States in monthly installments. The moneys to pay said compensation are hereby appropriated; and there is also hereby appropriated the sum of \$5,000, or so much thereof as may be necessary, to be expended under the direction of the Secretary of the Interior, to pay such contingent expenses of said court and its officers as to such Secretary may seem proper. Said court shall have a seal, shall sit at such place or places in the Choctaw and Chickasaw nations as the judges may designate, and shall hold public sessions beginning the first Monday in each month, so far as may be practicable or necessary. Each judge and the clerk and deputy clerk shall be authorized to administer oaths. All writs and process issued by said court shall be served by the United States marshal for the district in which the service is to be had.

The fees for serving process and the fees of witnesses shall be paid by the party at whose instance such process is issued or such witnesses subpoenaed, and the rate or amount of such fees shall be the same as is allowed in civil causes in the circuit court of the United States for the western district of Arkansas. No fees shall be charged by the clerk or other officers of said court. The clerk of the United States court in Indian Territory having custody and control of the files, papers, and proceedings in the original citizenship cases shall receive a fee of \$2.50 for transferring and certifying to the citizenship court the files, papers, and proceedings in each case, without regard to the number of persons whose citizenship is involved therein, and said fee shall be paid by the person applying for such transfer and certification. The judgment of the citizenship court in any and all of the suits or proceedings so committed to its jurisdiction shall be final. The Secretary of the Interior is hereby authorized to pay out of any of the common funds of the two nations in the Treasury of the United States all expenses reasonably or necessarily incurred by such nations in the proper conduct, on their behalf, of the suits and proceedings provided for in this in the two preceding sections.

Mr. JONES of Arkansas. Before the amendment is adopted, I wish to state that I propose to offer an amendment in the last five or six lines of the section, but I suggest that the reading of the bill be concluded before the amendment is taken up. I think there will be no objection to the amendment on the part of the chairman. I would rather the reading of the bill should be finished, and then we will recur to this section.

The PRESIDENT pro tempore. The question is on agreeing to the amendment which has been stated.

The amendment was agreed to.

The next amendment was, on page 28, line 18, after the word "year," to strike out "or" and insert "nor;" so as to read:

and the penalty for this offense shall be confinement at hard labor for a period of not less than one year nor more than five years, and in addition thereto, a forfeiture to the Choctaw and Chickasaw nations of the lands, other tribal property, and proceeds so obtained.

The amendment was agreed to.

The next amendment was, in section 41, page 32, line 5, before the word "months," to strike out "six" and insert "nine;" so as to read:

All persons duly identified by the Commission to the Five Civilized Tribes under the provisions of section 21 of the act of Congress approved June 28, 1898 (30 Stats., 495), as Mississippi Choctaws entitled to benefits under article 14 of the treaty between the United States and the Choctaw Nation concluded September 27, 1830, may, at any time within nine months after the date of the final ratification of this agreement, make bona fide settlement within the Choctaw-Chickasaw country, etc.

The amendment was agreed to.

The next amendment was, in section 48, page 35, line 5, after the word "any," to strike out "member of the Choctaw or Chickasaw nations" and insert "person;" so as to read:

Whenever any tract of land shall be set aside for town-site purposes, as provided in said act of May 31, 1900, or by the terms of this agreement, which is occupied by any person, such occupant shall be fully compensated for his improvements thereon, out of the funds of the tribes arising from the sale of town sites, etc.

Mr. STEWART. The committee withdraws this amendment. The PRESIDING OFFICER (Mr. PERKINS in the chair). The amendment of the committee is withdrawn.

Mr. JONES of Arkansas. That leaves the original language to stand.

The PRESIDING OFFICER. The Secretary will read the original language of the bill, the amendment having been withdrawn.

The next amendment was, in section 53, page 37, line 3, before the word "case," to insert "such;" so as to make the section read:

53. Such towns in the Choctaw and Chickasaw nations as may have a population of less than 200 people, not otherwise provided for, and which in the judgment of the Secretary of the Interior should be set aside as town sites, shall have their limits defined not later than ninety days after the final ratification of this agreement, in the same manner as herein provided for other town sites; but in no such case shall more than 40 acres of land be set aside for any such town site.

The amendment was agreed to.

The next amendment was, on page 37, after line 5, to strike out section 54 in the following words:

54. All town sites heretofore set aside by the Secretary of the Interior on the recommendation of the Commission to the Five Civilized Tribes under the provisions of the act of Congress approved May 31, 1900 (31 Stats., 221), with the additional acreage added thereto, and all town sites which may be hereafter so set aside, as well as all town sites set aside under the provisions of this agreement having a population of less than 200 shall, after being divided into lots and blocks and a map or plat thereof made by the town-site commission, be sold at public auction to the highest bidder, appraisal of said town lots to be made as provided in the Atoka agreement for the valuation of improved town lots; and the purchaser of each of said town lots shall, within ten days from the date of his purchase, pay into the Treasury of the United States to the credit of the Choctaw and Chickasaw tribes one-third of the purchase price, and the balance in two equal annual installments, without interest, and when the entire sum is paid he shall be entitled to a patent for the same, and no lot shall be sold at auction at less than its appraised value: *Provided, however,* That when any lot so sold at public auction shall have thereon improvements erected by a person claiming possessory right to said lot, the said improvements shall be appraised by a committee, one member of which shall be selected by the owner of the improvements and one member by the purchaser of said lot; and in case the said committee is not able to agree upon the value of said improvements, the committee may select a third member, and in that event the determination of the majority of the committee shall control. And said committee of appraisal shall be paid such compensation for their services by the two parties in interest, share and share alike, as may be agreed upon, and the amount of said appraisement shall be paid by the purchaser of the lot to the owner of the improvements in cash within thirty days after the decision of the committee of appraisal.

And to insert:

54. All town sites heretofore set aside by the Secretary of the Interior on the recommendation of the Commission to the Five Civilized Tribes, under the provisions of the act of Congress approved May 31, 1900 (31 Stats., 221), with the additional acreage added thereto, and all town sites which may hereafter be so set aside, as well as all town sites set aside under the provisions of this agreement having a population of less than 200, shall be surveyed, laid out, platted, appraised, and disposed of in a like manner, and with like preference rights accorded to owners of improvements, as other town sites in the Choctaw and Chickasaw nations are surveyed, laid out, platted, appraised, and disposed of under the Atoka agreement, as modified or supplemented by the said act of May 31, 1900: *Provided,* That as to the town sites set aside as aforesaid, that the owner of the improvements shall be required to pay the full appraised value of the lot instead of the percentage named in the Atoka agreement, and where, because of his failure to purchase within the time limited in the Atoka agreement, the lot is sold at public auction the purchaser at such sale shall pay to the owner of the improvements the price for which the lot shall be sold, less the full appraised value thereof, and shall pay such appraised value into the United States Treasury, instead of the percentage named in the Atoka agreement.

The governor of the Chickasaw tribe and the principal chief of the Choctaw tribe, acting together, may, with the approval of the Secretary of the Interior, and upon such terms and conditions as said Secretary may prescribe, sell and convey in tracts of not exceeding 40 acres, or a quarter of a quarter section, at any one place, such lands adjoining or in the vicinity of a town site, as may be desired for the establishment and operation of a manufacturing or industrial plant, which will tend to encourage the cultivation of the land held by either of said tribes, or its members, or which will promote the general welfare of the community. The proceeds of any such sale shall be paid to the Secretary of the Interior and be by him covered into the Treasury of the United States to the credit of the two tribes, according to their respective interests therein. Where the lands so sold and conveyed are occupied or improved by any member of the tribe he shall be compensated for his right of occupancy or improvements out of the proceeds of the sale in such manner as the Secretary of the Interior may direct. After allotment has been made of any lands desired for the establishment or operation of such plant, the sale and conveyance thereof may be made by the allottee in the manner and subject to the restrictions herein prescribed, instead of being made through the chief executive officers of the two tribes.

The amendment was agreed to.

The next amendment was, in section 56, page 41, line 17, after the word "auction," to insert "for cash," and in line 18, after the word "President," to insert "as hereinafter provided;" so as to make the section read:

56. At the expiration of two years after the final ratification of this agreement all deposits of coal and asphalt which are in lands within the limits of any town site established under the Atoka agreement, or the act of Congress of May 31, 1900, or this agreement, and which are within the exterior limits of any lands reserved from allotment on account of their coal or asphalt deposits, as herein provided, and which are not at the time of the final ratification of this agreement embraced in any then existing coal or asphalt lease, shall be sold at public auction for cash under the direction of the President, as hereinafter provided, and the proceeds thereof disposed of as herein provided respecting the proceeds of the sale of coal and asphalt lands.

The amendment was agreed to.

The next amendment was, in section 57, page 42, line 2, after

the word "auction," to insert "for cash;" and in the same line, after the word "President," to insert "as hereinafter provided;" so as to make the section read:

57. All coal and asphalt deposits which are within the limits of any town site so established, which are at the date of the final ratification of this agreement covered by any existing lease, shall, at the expiration of two years after the final ratification of this agreement, be sold at public auction for cash under the direction of the President, as hereinafter provided, and the proceeds thereof disposed of as provided in the last preceding section. The coal or asphalt covered by each lease shall be separately sold. The purchaser shall take such coal or asphalt deposits subject to the existing lease, and shall by the purchase succeed to all the rights of the two tribes of every kind and character, under the lease, but all advanced royalties received by the tribe shall be retained by them.

The amendment was agreed to.

The next amendment was, in section 59, page 43, line 11, after the word "shall," to strike out "after the expiration of two" and insert "within three;" in line 14, after the word "auction," to insert "for cash," and in line 15, after the word "President," to insert:

by a commission composed of three persons, which shall be appointed by the President, one on the recommendation of the principal chief of the Choctaw Nation, who shall be a Choctaw by blood, and one on the recommendation of the governor of the Chickasaw Nation, who shall be a Chickasaw by blood. Either of said commissioners may, at any time, be removed by the President for good cause shown. Each of said commissioners shall be paid at the rate of \$4,000 per annum, the Choctaw commissioner to be paid by the Choctaw Nation, the Chickasaw commissioner to be paid by the Chickasaw Nation, and the third commissioner to be paid by the United States. In the sale of coal and asphalt lands and coal and asphalt deposits hereunder the commission shall have the right to reject any or all bids which it considers below the value of any such lands or deposits.

And on page 44, line 8, before the word "deposited," to strike out "and the proceeds thereof" and insert "The proceeds arising from the sale of coal and asphalt lands and coal and asphalt deposits shall be;" so as to make the section read:

59. All lands segregated and reserved under the last preceding section, excepting those embraced within the limits of a town site, established as hereinafter provided, shall, within three years from the final ratification of this agreement and before the dissolution of the tribal governments, be sold at public auction, for cash, under the direction of the President, by a commission composed of three persons, which shall be appointed by the President, one on the recommendation of the principal chief of the Choctaw Nation, who shall be a Choctaw by blood, and one on the recommendation of the governor of the Chickasaw Nation, who shall be a Chickasaw by blood. Either of said commissioners may, at any time, be removed by the President for good cause shown. Each of said commissioners shall be paid at the rate of \$4,000 per annum, the Choctaw commissioner to be paid by the Choctaw Nation, the Chickasaw commissioner to be paid by the Chickasaw Nation, and the third commissioner to be paid by the United States. In the sale of coal and asphalt lands and coal and asphalt deposits hereunder the commission shall have the right to reject any or all bids which it considers below the value of any such lands or deposits. The proceeds arising from the sale of coal and asphalt lands and coal and asphalt deposits shall be deposited in the Treasury of the United States to the credit of said tribes and paid out per capita to the members of said tribes (freemen excepted) with the other moneys belonging to said tribes in the manner provided by law. The lands embraced within any coal or asphalt lease shall be separately sold, subject to such lease, and the purchaser shall succeed to all the rights of the two tribes of every kind and character, under the lease, but all advanced royalties received by the tribes shall be retained by them. The lands so segregated and reserved, and not included within any existing coal or asphalt lease, shall be sold in tracts not exceeding in area a section under the Government survey.

The amendment was agreed to.

The next amendment was, in section 66, page 48, line 2, before the word "appropriate," to strike out "a book" and insert "books;" so as to make the section read:

66. All patents to allotments of land, when executed, shall be recorded in the office of the Commission to the Five Civilized Tribes within said nations in books appropriate for the purpose, until such time as Congress shall make other suitable provision for record of land titles as provided in the Atoka agreement, without expense to the grantee; and such records shall have like effect as other public records.

The amendment was agreed to.

The reading of the bill was concluded.

Mr. JONES of Arkansas. I suggest to the chairman of the committee in lieu of lines 23, 23, 24, and 25 on page 26, and lines 1 and 2 on page 27, that the following language be inserted in the amendment proposed by the committee:

All expenses necessary to the proper conduct on behalf of the nations of the suits and proceedings provided for in this and the two preceding sections shall be incurred under direction of the executive of the two nations; and the Secretary of the Interior is hereby authorized, upon certificate of said executive, to pay such expenses as are, in his judgment, reasonable and proper out of any of the joint funds of said nations in the Treasury of the United States.

Mr. STEWART. I accept that amendment. It is all right.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. STEWART. As the morning hour has about expired, I can go no further to-day, but to-morrow morning after the routine business I shall desire to call up the Creek treaty, which is a very short one, and have it passed.

Mr. STEWART subsequently said: I desire to enter a motion to reconsider the vote by which the Choctaw treaty was passed this afternoon.

The PRESIDING OFFICER (Mr. CLAY in the chair). The motion will be entered accordingly.

UTE INDIAN RESERVATION LANDS.

Mr. TELLER. I ask unanimous consent to call up a local bill—the bill (H. R. 12796) providing for free homesteads in the Ute Indian Reservation in Colorado.

The PRESIDENT pro tempore. The bill will be read.

The Secretary read the bill; and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ISTHMIAN CANAL.

The PRESIDENT pro tempore. The Chair lays before the Senate the unfinished business.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 3110) to provide for the construction of a canal connecting the waters of the Atlantic and Pacific oceans.

Mr. HANNA. Mr. President, the question of transportation is one of the important questions of to-day. It has grown beyond the stage of facility, and is now being measured by the rule of economics. The canoe and the flatboat as a means of transportation upon our inland rivers and the primitive and crude vessels that plowed the salt seas have given place, as necessity demanded, to more improved and better facilities, forced by the growing commerce of the world. We do not know what the limit may be, but we appreciate that every decade brings new propositions which the minds of men governing these questions must solve. When we had reached the point where the iron horse had transplanted the canal boat, and it seemed that the waterways were useless, we began to wonder what the next transition might be. But nature has provided a means for the conduct of the transportation question on parallel lines. The waterways have been deepened and enlarged, vessels have grown in size and speed and economical management, to still lead in the question of economic transportation.

After we had learned and became accustomed to the rapid transit of the locomotive and the train we were no longer satisfied to travel at a slow pace upon the high seas; and that demand set at work the inventive genius which has created and put afloat the magnificent steamship, not only magnificent in its proportions for the accommodation and comfort of passengers, but on account of its enormous transportation of cargo.

Not satisfied to stop there, when the long routes to meet the growing commerce of the Orient and the Southeast demanded quicker transportation, there was a genius raised as if for the occasion. That man was De Lesseps. Almost in the face of universal condemnation as to his project he pursued it to a successful end. Even before he had consummated the project of the Suez Canal the people of the United States had had their attention called on several occasions, growing out of the enterprise and energy of some of her citizens, to the possibility of the construction of a canal across the Isthmus. There seemed to be a determination to sever the connecting link between North and South America for the purpose of bringing them closer together, and the commercial necessity for it seemed to grow as this subject was studied—not by the influence or aid of any government, but by the energy of private enterprise.

It is not my purpose to recite the particulars with regard to all the undertakings to build a canal across the Isthmus. In the report of the minority of the committee, after careful study, research, and preparation, we have put before the members of this body a report which I believe covers every question in point, and were I to have my choice as a matter of argument I would prefer to read that report. Therefore I can only urge upon all Senators to take my advice and read it carefully. There are some points connected with it, however, that I desire to emphasize.

First, admitting that there is a strong sentiment among the people of this country for an isthmian canal; that we have passed the experimental stage; that we have passed the sentimental stage, we are to-day confronted by the practical proposition, if a canal is to be built, where shall it be built? If we are satisfied that we want a canal—that a canal is necessary to the development of our commerce—our next thought necessarily must be that we want the best canal.

It is only very recently that the opportunity has come to us to consider other routes. For years we talked and wrote about the Nicaragua Canal until it has become a sentiment. It seemed to be the only route across the Isthmus available to this country or to its citizens for the construction of a canal.

Mr. President, I say we have dwelt upon the question of the Nicaragua Canal as a sentiment until we have grown to believe that there was no other route possible or available. Two years ago, when this thought seemed to be forced upon the people of

this country with more than unusual interest, owing to the late war with Spain, when the passage of the famous war ship, the *Oregon*, from San Francisco to Cuba called the attention of the world to a feat which had never been equaled by any other vessel, it was an advertisement for our Navy, but at the same time it was an object lesson; and with our fleets divided and scattered broadcast over the world we seemed to be forced as a military necessity to the conclusion that a canal must be built.

Going back to 1882, when the French company was organized to build the Panama Canal, the inspiration of the name of De Lesseps brought to his support the entire people of France. What he had accomplished in the construction of the Suez Canal, its eminent success physically and financially, gave him the opportunity to command any amount of capital for any project which he might offer. With all the strength and assistance behind him that the people of France could give, with the experience he had had before he set to work, he called around him the most eminent engineers, and practical contractors for such a work were also at his command.

His first object was (always looking to the end for success) to find the best place on the Isthmus to connect the waters of the Caribbean Sea with the Pacific Ocean. Can any one doubt that before embarking in that enterprise every question bearing upon the success of it was carefully considered from every standpoint? Is it not fair to suppose that De Lesseps considered every question which we are liable to discuss to-day before he invested the money of his people and risked his reputation as to the success of it?

He chose the route of the Panama Canal. Work was commenced. I will not go into the details which resulted unfortunately for the company. I do not care to discuss the failure which brought down that great name from its pedestal. It was not an error of judgment or want of feasibility in the project that caused its suspension. It was in the administration of its affairs.

In the interim the United States had not been idle. We had sent one, two, aye, three commissions to examine what seemed to us to be the only unoccupied route on the Isthmus. The first report was for a small canal; the second for a larger; the third for a still larger.

But I echo the sentiment of the Senator from Alabama [Mr. MORGAN] when he said yesterday it was a fortunate thing that none of them had been adopted. Any canal built along the lines of those first surveys and estimates would have been a failure—a failure because in the development of this great question of transportation our ocean ships have grown far beyond what would have been the capacity of that canal.

Those surveys and those reports had the effect to fasten upon the minds of the American people a belief that the only route in which we could possibly be interested was the Nicaragua route. I want to confess that, in common with all my fellow-citizens, I shared in that feeling and belief; and as the necessity seemed to grow and demand an isthmian canal, I would have been prepared, under the influences which then existed, to give my hearty support to that project; but it seems as if the fates were guiding us in the right direction, when, for some reason or other, we were deterred from building that canal which would have been obsolete to-day, and we were deterred from embarking in a project that, in the light of subsequent events, it seems to me would have been a mistake.

Mr. President, without going into detail, I want to call attention to a few reasons for which we are supposed to construct the canal.

First, we want the best route. What is the best route? The shortest route under like conditions. The Panama Canal route is 49 miles long, as against the 183 miles of the Nicaragua route.

There are physical conditions connected with the operation of the canal which are just as important as its length. Although you might have an ideal canal in all the physical conditions for which a canal is to be built, there might be other conditions which would render its operation almost impossible.

You build your canal for what? For the passage of vessels from ocean to ocean in the shortest possible time, at the lowest possible risk, and also on the most economical lines. That means success.

I am willing to concede that in the consideration of this question I am looking quite as much to the success of the canal commercially as I am to its existence as a means of defense. One without the other might call for criticism from people who look upon this question from different standpoints; but it is not so important, in my judgment, that a man-of-war can be passed from one ocean to the other in a shorter time than it would take to go around the Horn as it is that that great highway of commerce shall be not only of the greatest advantage to the United States, but to the whole world. When we are talking about the construction of a canal, naturally first considering our own interests,

we must not forget the fact that we are building this canal for a world canal, for the commerce of the world.

It will be necessary, Mr. President, in considering the economic operation of that canal, to take into account the business that will be attracted to it, not only from the United States, but from every maritime nation of the world.

This question was taken up in the committee of which I am a member at a time when there seemed to be a change in the condition of things, when the report of the Isthmian Canal Commission first made was in print, and after the speedy action by the House of Representatives in passing the Hepburn bill. Only a week later a change came over the situation, following the proposition made by the New Panama Canal Company, and with which you are all familiar.

We had before us the closing paragraphs of the report of the commissioners, which is before you, advising the construction of the Nicaragua Canal because of the price asked for the Panama Canal, \$109,000,000. That was followed immediately by a reconsideration on the part of the New Panama Company. The president of the French company, who had conducted the negotiations with the Commission up to that time, had been dethroned, and in an opportune time came the offer of \$40,000,000, which was the very figure estimated by the Commission as the sum at which they would advise the purchase of the rights and property of that company.

The statement was made yesterday by the senior Senator from Alabama that in considering that feature of the question no inventory had been taken into account. I was surprised at that statement, because here is Senate Document No. 123, giving a complete inventory of the property and the prices, which led our Commission to place their estimate of \$40,000,000 as the value of what we propose to purchase.

Mr. MORGAN. Will the Senator yield to me to make a very brief statement on that subject?

Mr. HANNA. Certainly.

Mr. MORGAN. I did not say that no inventory had been submitted. I said nothing about an inventory, except that there was no provision in the substitute, as offered, for an inventory; that there was no statement in that substitute of what the property consisted for which we are to pay \$40,000,000.

I now state further that in the proposition that was made by cable from the Panama Canal Company to Admiral Walker there was no statement of what the property was that was to be conveyed except by classes. There was no inventory, and there is none provided for being taken in this substitute, and none is mentioned in it. I did not refer to outside correspondence that had taken place between M. Hutin and Admiral Walker. The substitute ought to state that an inventory is to be required, or it ought to state the articles that we want to buy.

Mr. HANNA. I suppose, Mr. President, we have got our information from the same source in all the particulars connected with this measure—the report of the Commission, the Senate document submitted through the committee and by the Isthmian Canal Commission for the information of the Senate; and here, on pages 4 and 5 of that document, we find:

The "totality, without exception, of its property and rights on the Isthmus," mentioned in the cablegram of January 9, includes the following classes of property:

There are 56 parcels of land to which the title rests in the canal company, amounting to about 30,000 acres, which, with the lands belonging to the railroad company, cover nearly all of the ground required for the actual construction of the canal. Some additional land must be acquired for the construction of the lakes at Bohio and Alhajuela and for the outflow from the Gigante Spillway, these additional lands being at present of little value.

Under the law of Colombia dated December 10, 1890, the canal company became entitled to 250,000 hectares (about 625,000 acres) of the land grant provided for in the original Wyse concession. These lands have never been delimited and the company has not actually taken possession of them, but the right to them would pass to the United States. In case the United States should not wish to take and hold these lands, it might relinquish the right in favor of Colombia in the negotiations with that Government for new treaty rights.

There are scheduled 2,431 buildings, divided among 47 subclassifications, used for offices, quarters, storehouses, hospitals, shops, stables, and miscellaneous purposes. Among them are two large permanent buildings in Panama, one used as the headquarters residence and the other as the general office; large general hospitals at Colon and Panama, and several important buildings at Colon. These buildings are furnished.

There is an immense amount of machinery, consisting of floating plant (tugs, launches, dredges, etc.) and spare parts, with 24 subclassifications; rolling plant (locomotives, cars, etc.) and spare parts, with 17 subclassifications; stationary and semistationary plant (excavators, cranes, pumps, etc.), with 25 subclassifications. The Commission does not attach much value to this plant for the reasons given in its report of November 16, 1901.

There are also many surveying and other instruments, office supplies and stationery, surgical and medical outfit, and miscellaneous supplies covering thousands of items.

The excavation already accomplished upon the main canal line which will be of value in the plan recommended by the Commission was carefully computed and was found to be 33,689,965 cubic yards. As stated in the report of November 16, 1901, the amount of excavation which can be utilized in the Chagres diversion is 210,873 cubic yards, and in the Gatun diversion 2,685,494 cubic yards. Adding these together, the total quantity of excavation which will be of value in the new plan is 36,586,332 cubic yards. A temporary diversion of the Panama Railroad has been made at the Culebra cut, which

also must be considered. Using the same classification of materials and the same unit prices as in the other estimates, with the 20 per cent added for contingencies, the value of the work done is found to be:

Canal excavation.....	\$21,020,386
Chagres diversion.....	178,186
Gatun diversion.....	1,893,456
Railroad diversion (4 miles).....	300,000

Contingencies, 20 per cent.....	22,895,023
	4,579,005

Aggregate.....	27,474,063
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Of the existing 70,000 shares of the Panama Railroad the canal company will transfer to the United States all but about 1,100 shares. These latter are held by a few individuals residing in various parts of the United States and in Europe.

Then it goes on to enumerate other properties; and from the estimates made by our engineers, at a bargain price, they say that all this property, personal and real, which is to be transferred under this proposition of \$40,000,000, we are to buy at \$40,000,000, according to their estimate; not with reference to what it cost the Panama Canal Company originally or what anybody else might say it was worth to them if they had competition for the purchase of this canal.

Mr. MORGAN. From what paper does the Senator read?

Mr. HANNA. I am reading from a Senate document.

Mr. MORGAN. Whose report is it?

Mr. HANNA. It is a message from the President of the United States of January 20, 1902, transmitting the Supplementary Report of the Isthmian Canal Commission, dated January 18, 1902.

Mr. MORGAN. A supplementary report?

Mr. HANNA. A supplementary report.

Mr. MORGAN. Does that refer to the report made by M. Hutin to Admiral Walker?

Mr. HANNA. This report is addressed to the President of the United States, and is signed by J. G. Walker, rear-admiral, United States Navy, president of Commission; Samuel Pasco, Alfred Noble, George S. Morison; Peter C. Hains, colonel, United States Corps of Engineers; William H. Burr; O. H. Ernst, lieutenant-colonel, United States Corps of Engineers; Lewis M. Haupt, Emory R. Johnson.

Mr. MORGAN. There is no inventory accompanying that report.

Mr. HANNA. I do not know what the Senator calls an inventory.

Mr. MORGAN. I call it a statement and description of articles of property that are proposed to be sold.

Mr. HANNA. I will call it a summary, if that will suit the Senator better.

Mr. MORGAN. A mere summary. There is no inventory submitted.

Mr. HANNA. When the transfer of the property is to be made, then we will go into details and have specifications as to what we are to buy.

Mr. MORGAN. That is exactly what I object to. I want Congress to know what it is doing.

Mr. HANNA. And I am trying to tell them. I may not be successful, but I am doing my best.

This is the report of the Commission who had themselves been upon the ground, who examined the works on the Nicaragua and Panama routes, and who had examined the property which was offered under this proposition. They had made their own estimate of value. Had that been accepted by the French company at the time it was made, there would have been no report from that Commission to Congress other than one advising the purchase of the Panama Canal; but because, as I have said before, the then president of that company insisted upon \$109,000,000 for the property, and because the Commission were not willing to recommend to this Government the purchase of the property at that price, they reported adversely; and that brought about a change in the affairs of the French company and in their policy, and finally an acceptance by them of the figures virtually offered by our Commission as a price which the United States Government would probably consider. That offer was made, and it was considered so favorably by the President of the United States that he immediately reconvened that Commission with instructions to reconsider the question and make a supplementary report. This is their report—their supplemental report of January 18, 1902.

Then the Senate authorized the Inter-oceanic Canals Committee to call before them and personally examine the members of this Commission. That examination went on for several weeks. There appeared before our committee not only the members of the Commission, but many others who were summoned from whom we hoped to get information. I have the record in detail of the evidence given before that committee by every one of the members of the Commission. I will except one, Mr. Haupt, who varied his statement from his original signed decision—but six out of the seven members of that Commission answered interrogatories put to them. There are three large volumes of this record in very

great detail; I have had it condensed on this one point so as simply to give the force of the judgment of the Commission.

The question was asked of Admiral Walker by myself:

Senator HANNA (referring to the Commission's final report). Now, as I understand this phraseology, the first section relating to the physical advantages, the shorter route, and the reasons given indicate your preference for the Panama Canal Company route, but owing to the conditions of the price asked you decided in favor of the other?

Admiral WALKER. Yes; we considered the price unreasonable; that it was so much so that we could not recommend it.

Senator HANNA. You consider \$40,000,000 as reasonable?

Admiral WALKER. I consider \$40,000,000 reasonable.

Senator HANNA. Had the price at that time been \$40,000,000, what, in your judgment, would have been the report of the Commission?

Admiral WALKER. I think it would have been in favor of Panama.

Senator HANNA. For the reasons above stated—owing to the physical advantages and the shorter line?

Admiral WALKER. And various other reasons.

Next, Mr. Morison, the well-known, eminent engineer, a member of the Commission, in answer to the same interrogatory, answered:

Mr. MORISON. Well, I can only speak for myself in that respect. I never should have signed any report recommending the Nicaragua route in preference to the Panama route except on the ground I felt that the United States could not afford to be held up by a French organization.

Senator HARRIS. The reduction in the price asked for to \$40,000,000 made it come within what you thought was a legitimate and proper price.

Mr. MORISON. I think that is a perfectly proper price. I think our Government could have better afforded to pay twice that price than to have built the Nicaragua Canal, if that had been the whole question; but the United States Government, as I look on it, has many other things to do than to build an interoceanic canal; and if it allows itself to be imposed upon through an unreasonable price for one piece of property, it may be for some others, and that feeling was what settled my decision.

Senator HANNA. From an engineering standpoint, from the standpoint of the physical conditions, you were in favor of the Panama route, as I understand you?

Mr. MORISON. I am, and always have been so since I have seen the two routes. I think the Panama route is decidedly the best, and for a good many reasons.

The next was Mr. Hains:

Senator HANNA. In short, had the value fixed upon the Panama Canal Company's property been \$40,000,000, instead of \$109,000,000, your report would at that time have been in favor of accepting the route?

Colonel HAINS. So far as I am concerned.

Senator HANNA. Of course I am only asking that.

Colonel HAINS. Yes. I should like to say right there, Senator, that the Isthmian Canal Commission has made three reports. The first report was a preliminary report, made in November, 1899. At that time it did not seem possible that any transfer of ownership of the Panama Canal rights could be passed to the United States. Now, the law under which we were acting provided that we were to report on the practicability and feasibility of building a canal to be under the control, management, and ownership of the United States. If it had been a question of mere practicability and feasibility uncoupled with anything else, I should have said that the Panama route was the most practicable and feasible; but coupled with this other condition, and seeing no prospect of getting a transfer, my idea was that the practicable route was the Nicaragua route.

When we came to make the other report later, the price charged for the Panama Canal was about \$109,000,000, as stated there, and we regarded that as an exorbitant sum and on that account threw it out of consideration again.

The next is Colonel Ernst:

Senator HANNA. You signed this report and afterward the supplementary report?

Colonel ERNST. I signed both of them.

Senator HANNA. After a thorough examination. In the regular report, the synopsis of which we have here, in closing the Commission uses this language:

"There are certain physical advantages, such as a shorter canal line, a more complete knowledge of the country through which it passes, and lower cost of maintenance and operation in favor of the Panama route, but the price fixed by the Panama Canal Company for a sale of its property and franchises is so unreasonable that its acceptance can not be recommended by this Commission."

Did you understand that to mean that had the price fixed by the Panama Canal Company for the sale of its property been reasonable and satisfactory that you would have recommended the Panama route at that time?

Colonel ERNST. Yes; I did so understand it.

The next is the testimony of Colonel Noble:

Senator HANNA. You have signed the report of the Commission. In the next to the last clause of that report is this statement:

"There are certain physical advantages, such as a shorter canal line, a more complete knowledge of the country through which it passes, and lower cost of maintenance and operation, in favor of the Panama route, but the price fixed by the Panama Canal Company for a sale of its property and franchises is so unreasonable that its acceptance can not be recommended by this Commission."

In making that statement the Commission virtually decided that if the price fixed by the Panama Canal Company had been reasonable, they would have recommended the Panama route?

Mr. NOBLE. That could be assumed, I think, and that was the case as shown later.

Senator HANNA. That was the case?

Mr. NOBLE. That was the case later.

The next is Professor Burr:

Senator HANNA. In that report it stated that, owing to the unreasonable price fixed by the Panama Canal Company for the sale of their property, you, under those conditions recommended the Nicaragua route. If the price had been as it is now, \$40,000,000, what would have been your judgment about it at that time?

Mr. BURR. I should have been in favor of the Panama route. I was then in favor of it, except for the unreasonable price put upon it. * * *

Then the same question was repeated by the Senator from Michigan [Mr. BURROWS]. So in the examination every witness, who had been charged by this Government with responsibility to it alone, called by that committee, verified the statement made that

had the offer of the sum recommended by the Commission been favorably considered in the first instance by the Panama Canal Company, the first report would have been the same as the supplemental report, in favor of accepting the offer.

Mr. President, I want to discuss this question from the standpoint of loyalty to my country. Having assumed the responsibility of constructing a ship canal for the world, we owe an equal responsibility to every nation who shall enjoy the privileges granted by the United States. I do not understand that this is any selfish project, or that we are even considering the rate per cent that shall come to us as a reward for our venture. Therefore, in considering the proposition, I want to do so from the standpoint of the future, with a thought to the great development that will come as it has in the past; and I am anxious that we shall make no mistake in the selection of a route on which this canal shall be built.

I do not believe there is a member of this body, designing to vote unselfishly and correctly, who would undertake to say what we shall do upon his own responsibility and information without advice acquired from the finest experts in the world. I was once in favor, as I said before, of the Nicaragua Canal, and I would have been satisfied, perhaps, two years ago if we had made the experiment; but looking at this question from a practical standpoint, inspired by the desire to do the best thing for the project, I have been forced by stubborn facts and conditions to change my mind.

I, in common with many others, believed that a sea-level canal would have been best.

Upon the request a year ago of some gentlemen who presented the Darien route, which contemplated a tunnel 5 or 6 miles long, I was led carefully to consider that proposition; but this Government having secured the services of half a dozen of the ablest engineers in our country for the purpose of telling us what is the best thing to do, and those gentlemen having reported adversely on the proposition of tunneling the Darien Mountain, I abandoned that.

But, Mr. President, for what did we need an Isthmian Canal Commission if not to advise us upon all these questions of technique of which we are not supposed to be masters?

Some of them are loyally serving their country as officers in the Army and Navy; all were bound by their oaths, when they appeared before the committee, to tell the truth, without fear and without favor; and we have their unanimous report in favor of accepting the proposition of the Panama Canal Company.

I do not expect to be able to finish this afternoon all that I care to say upon this subject, having agreed to divide the time to-day with the Senator from Oregon [Mr. MITCHELL]; therefore I wish to pass briefly to one or two other questions connected with the operation of the canal.

Volcanoes and earthquakes seem to be a burning question just now while Mount Pelee is discharging its fire, and they have led to a more careful consideration of that matter. I might go back to the great speech made by Senator Davis, of Minnesota, upon the very bill which was mentioned here yesterday as being the crowning effort of the Committee on Foreign Relations, and quote from him what is here verified by the map to-day as to the number of active volcanoes within the immediate range of the proposed route of the Nicaragua Canal. I can not discuss this question from a scientific standpoint, but before I am through with it I will produce evidence which should at least cause us to pause and not to treat lightly this warning of nature.

The Commission in their report state that earthquakes are frequent all through the Isthmus, but active volcanoes exist only from where you see the first red dot northwesterly; and every red dot is an active volcano, the black ones inactive volcanoes. I am not boasting merely about the size of my maps, for I believe the red lines indicating the Panama Canal, there [indicating], and the Nicaragua Canal, here [indicating], afford a pretty good illustration as to some of the conditions that would arise in the operation of a vessel on either route.

Mr. President, you must remember that this canal is to be only 200 feet wide on the surface and 150 feet wide at the bottom, and navigation through that tortuous canal under unfavorable conditions of weather is a very serious problem. If we are seeking to save time, we can not afford to measure it entirely from the standpoint of distance. But upon that matter I will submit figures later on.

The cost of construction, measured from the same unit of value, is \$5,000,000 more for the Nicaragua Canal than for the Panama route. But there is another factor coming in here which, considered from a business standpoint, impresses me more than the difference in cost. The engineers' report is that it will cost \$1,300,000 more per annum to operate and maintain the Nicaragua than the Panama Canal; and Colonel Ernst told me personally that the figure should have been \$50,000 additional, because when the report was printed a mistake was made in omitting the figure

"5" and placing a "0" in its place; that it should have been \$1,350,000. That sum represents the interest at Government rates on \$65,000,000, and the \$1,350,000 is to be paid annually. Put that to the credit of the Panama route.

But that is not all. Before I have finished discussing this question I will demonstrate as a fact, from authorities that can not be disputed, that the Nicaragua Canal can never be operated successfully at night. You must remember that our ocean-going steamers have grown from small vessels to vessels 700 feet long and 72 feet deep, with no evidence anywhere that they have reached the maximum, and when you consider that you are building this canal not only for to-day, or next year, but for all time, you must measure the results of this growth and development and prepare for it.

The Panama Canal was projected as a sea-level canal and intended to be such, and had all the money that was subscribed to that undertaking been faithfully expended I have no doubt the canal would be working as a sea-level canal to-day, at perhaps some additional cost.

When the old Panama Canal Company failed, public-spirited and energetic men in France undertook to revive it, and they proposed to raise \$13,000,000 to continue the work. They had no connection with the old company, but were determined that the enterprise should not be abandoned, and with the care usually exercised by men of business and capital, they determined, before they expended one dollar of that money, to find out for themselves and through their own means of information exactly the situation on the Isthmus. There were selected, then, as an advisory board of engineers the following gentlemen:

Messrs. Robaglia, Bouvier, Fargue, and Martin, retired general inspectors of the department of roads and bridges of France; Gen. Henry L. Abbot, of the Corps of Engineers, United States Army; Mr. Castel, a retired general inspector of the French department of mines; Mr. Daynard, chief engineer of the Compagnie Générale Transatlantique; Mr. Fteley, of the aqueduct commission of New York City, the engineer who built that great aqueduct; Mr. Fulscher, of the department of public works of Prussia, formerly the directing engineer of the works of the Kiel Canal; Mr. Hersent, a distinguished civil engineer; Mr. Henry W. Hunter, chief engineer of the Manchester Ship Canal; Mr. Koch, chancellor of the department of public works, of the Technique Academy at Darmstadt; Mr. Skalkowski, former director of the bureau of mines of Russia; Mr. Sosa, chief engineer of the Republic of Colombia.

This was an international corps of the most distinguished engineers in the world, called to the aid of the gentlemen who were to invest their money in this project and who obtained (as we supposed we were doing) the best technical knowledge possible in the world to guide them. That body set about their investigations. A portion of them went to the Isthmus, among whom was General Abbot. They went over all the plans and specifications and estimates that had gone before. They took one whole year's time and more in arriving at their conclusion, and when arrived at and presented, the company went on, paid in its money, satisfied that this report had verified not only the technique but the policy and everything else which entered into the project of the construction of the canal.

With that verification of the enterprise, itself again verified as it has been by the most eminent engineers that the United States can produce, why should the United States Senate or the Congress hesitate? Why do we need to go further for more evidence to guide us in doing what is for the best interests of our country under these circumstances? It seems to me this is a practical question, in which we are all alike interested.

There is no politics, there is no sectionalism, there is no partisanship in this project.

It is a great, broad, liberal American policy for which we stand in the building of a world canal. I sympathize with all those who in other days, laboring for an isthmian canal, had but one star to guide them—Nicaragua—and who must now naturally feel like giving up an old friend to pass it by. But in this age of progress and development, Mr. President, the American people are looking to Congress to answer to them on this question without regard to sentiment, guided only by the best knowledge which we can obtain.

For one I should be glad could any other project better than this be submitted, but I understand that the route which is still shorter than all others, being only 30 miles long, and called the San Blas route, whether or not it is practicable as an engineering proposition, is impracticable because the route is absolutely controlled by the concession to the New Panama Canal Company.

If we have waited as long as we can or ought to wait, let us show wisdom enough in discussing and deciding this question to provide for any contingency which may occur in the future.

Let us adopt a route where as the Commission say it may be possible—aye, it is possible, being only a question of dollars and cents—that a sea-level canal can be built.

The Panama Canal was commenced and intended to be a sea-level canal, and it would have been a sea-level canal had the project been carried out. I am told by engineers that there is nothing in the way, even after the Panama Canal shall be completed with locks, during and while it is in operation even, to make it a sea-level canal by paralleling certain parts of it.

You will find when this subject opens up that not only the questions of distance and of curvature and of locks enter into it, but that in regard to the Nicaragua route, the trade winds blow every day in the year from 16 to 20 knots across the Nicaragua route. At the slow speed at which a vessel will be compelled to operate in passing through a narrow canal, those winds would make it an absolute physical impossibility to keep her off the banks without the aid of tugs. The more I have studied this question from the standpoint of the vessel, the more I have been convinced that we never have gone far enough in dealing with the successful operation of the canal, even when we had but the one route to consider. Upon that question I propose later on to furnish testimony.

I have said that the annual cost of operating the Nicaragua Canal is \$1,350,000, or, say, \$1,300,000, in excess of the Panama route. That is the interest on \$65,000,000. The extra expense of \$1,300,000 would, of itself, to any individual or private corporation proposing to invest their money in an enterprise like this, decide; and why should not the United States Government conduct its business upon business principles? While we may not be constructing the canal for the purpose, in the first instance, of making money, if we have an opportunity to have a canal, and one that will not be a burden to the Government, is it not better to choose that route when we have the choice?

Another feature connected with the expenses of the canal will be shown before the debate is closed, and that is that along the line of the Nicaragua route it is a very doubtful question whether either the Government of Nicaragua or of Costa Rica is the bona fide owner of all the land, and whether it could, if it would, pass the control of it to this Government without damages to other parties.

It is a matter of record and of history that the Maritime Canal Company was started a number of years ago under the auspices of one Menocal, who was quoted here yesterday as an authority. They spent some three or four or five million dollars, and purchased rights from Lake Nicaragua to the Pacific, which they claim to own to-day. They obtained concessions from Nicaragua and Costa Rica, which concessions they claim to-day have not been forfeited, and the record of the Interior Department shows that the United States Government has defended them as their right.

Those matters are to be settled with.

I know nothing about the validity of those claims. Others more competent to speak will discuss that question, but it is not a clean bill of lading we get from them.

No matter what their protocol is, which is no more valid and no more a benefit to us than the one from Colombia, that is all a matter for after consideration, deliberation, and negotiation on the part of this Government. There is nothing to bind the hands of the President when he makes the final bargain either with Colombia, Costa Rica, or Nicaragua.

Right in this connection, speaking to the spirit of the Spooner amendment, when the insinuation is made that those who advocate the Panama Canal are doing so from selfish motives or otherwise, to protract the discussion of the bill and defeat the construction of any canal, speaking for myself, I resent it. But if you are going to consider the question of rights which we can acquire or not, as bearing upon whether this Government will enter into the building of a canal, that applies both to the Panama and to the Nicaragua Canal.

The claim made, intended to have a most forcible and demoralizing effect, that it would be impossible for us to obtain a title from the French company of their rights or their concessions, and that this Panama Canal project was simply a subterfuge to delay and procrastinate, inspired the Senator from Wisconsin to offer as an amendment a provision that a canal should be built, no matter which route was selected. As I understand the spirit of that amendment, it is meant to say that if the title of the Panama shall be found imperfect and not to be corrected, if the concession is faulty and not to be made satisfactory, then the President of the United States shall have the right and the authority to go ahead and build the Nicaragua Canal, of course with the same provision that the title and the concessions shall be satisfactory.

Uncle Sam does not propose to go into that business unless he has a clean sheet from any of the countries granting concessions.

I for one am not disturbed with reference to the unsettled condition on the Isthmus, which it has been stated is a chronic condition in Colombia, and you might add that there are others in Central and South America. If this canal will do anything, in addition to accommodating commerce, it will be a peacemaker,

because being owned and controlled and defended by the United States it will be a power for peace wherever it is built.

When our authority is placed anywhere along that Isthmus I have no fear of interference with the canal or with any citizen of the United States who may have charge of the management or conduct of the canal.

Mr. President, I will ask the indulgence of the Senate at this point. I am not able to continue longer, and I will gladly yield the floor and continue my remarks to-morrow.

Mr. MITCHELL. Mr. President, it is with considerable diffidence and a great deal of hesitation that I shall attempt to follow the distinguished Senator from Ohio [Mr. HANNA] in a discussion of one of the greatest questions, to my mind, which has ever come before the American Senate. Being a member of the committee, however, and being one of the seven members of that committee who reported the House bill without amendment, I deem it to be a part of my duty, in connection with my duties here, to give the reasons, so far as I can, why the bill reported by the committee should, in my judgment, receive the approval of the Senate.

I have listened with considerable interest to the argument of the distinguished Senator from Ohio. It was able, ingenious, and plausible, but I think I shall be able as I proceed, as I anticipated somewhat the line of his argument, to show that the grounds upon which he bases the most, if not, indeed, all of his argument are not solid rock, but rather of a sandy nature.

The speedy construction of an isthmian canal by and under the control of the Government of the United States is one of the pressing demands of the age. It is demanded by national and international commerce; by internal and foreign trade; by the necessities of our military and naval service; by the spirit and progress of the times in which we live; by the material and physical development of a century stupendous in results and marked by achievements incomparable in character and unequalled by that of any that has preceded it.

It is demanded by a united voice coming from the people of the country, emphatic in character and in a tone which can not be misunderstood. Indeed, so pronounced is this demand on the part of the people of this country that both the great political parties, in both national and State conventions, have not dared to ignore it, and hence they have earnestly demanded of Congress that provision be made without delay for the commencement of this great national and international work. Indeed, so universal, so determined, so insistent has been the demand of the people for an isthmian canal that the few who are opposed to legislation looking to its early construction do not dare openly oppose such legislation, but, while professing to be in favor of a canal, are compelled to resort to all manner of devices for the purpose of defeating, by indirection, that which they dare not directly oppose.

And while it must be presumed that every member of this Senate who says he is favorable to legislation which will result in the early construction of the canal is absolutely honest in that profession, and while I know it is a fact that there is in this body an honest difference of opinion as to which route, the Nicaragua or the Panama, should be adopted, and also an honest difference of opinion as to the proposition or expediency of purchasing the Panama concern for \$40,000,000, I give it as my deliberate judgment, after as thorough an investigation as I have been able to make, that a failure upon the part of the Senate to accept the House bill will simply mean an indefinite postponement, if not indeed the ultimate defeat of the canal.

But, further, it is my settled conviction that the purchase of the French plant and the adoption of the Panama route, although it might eventually result in getting the canal, will involve us in complications with the French Government and the French people that will be a series of entanglement and irritation for the next one hundred years. It will be another series of French spoliation claims similar to those growing out of our treaty with France one hundred years ago, and which have annoyed and troubled us ever since, and whose claims are even yet lifting their undying heads before the committees of this body at every session of Congress.

The National House of Representatives, the direct representatives of the people, never insensible or irresponsible to the people's demands, have responded to that demand with an alacrity and a unanimity well worthy of emulation by the American Senate, and now the responsibility rests with this body. Shall that responsibility be met bravely, firmly, resolutely, and without further delay, or shall we by extended discussion, by prolonging a debate that has been going on for more than three-quarters of a century, and engaging in entangling alliances with a foreign power, and complicating our Government and our people in an inextricable web, involving us not only in the meshes of French tribunals, but individual interests and personal claims of more than half a million of the French people—men, women, minors, trustees, and guardians—and thus in the end defeat the earnest demands and the just expectations of the American people?

The bill now before the Senate passed the House of Representatives on January 9, 1902, with but two dissenting votes. It came to the Senate and was referred to the Committee on Inter-oceanic Canals of this body on January 13, 1902, and from that date until the 13th day of March, 1902, that committee, composed of 11 Senators, was, either as a full committee or by its several subcommittees, engaged almost daily in hearing testimony, not only of the members of the Isthmian Canal Commission, but of many prominent engineers and others.

This investigation took a wide scope. All interests were carefully considered, and the two routes of Nicaragua and Panama were given full, complete, and thorough investigation. All witnesses desired by the friends of the respective routes were heard; able and extended arguments were listened to, and finally, on the 13th of March, 1902, that committee, by a nonpartisan vote of 7 yeas to 4 nays, reported the House bill back to the Senate without amendment, and recommended its passage. I have said the vote in favor was nonpartisan, 3 Republicans and 4 Democrats, one of those being that of the distinguished chairman of that committee, Senator MORGAN. This was the deliberate conclusion of your committee, after as thorough an investigation as it was possible for any diligent committee to make in the period of two full months.

The questions now confronting the Senate in reference to an isthmian canal are these—they are of a threefold nature:

First. Shall the Senate accept the House bill, which provides for the appropriation of \$180,000,000 for the construction of the canal by the Nicaragua route; or

Second. Shall the Senate amend that bill and provide that this Government shall pay the French Canal Company \$40,000,000 for its comparatively useless assets, and provide the further necessary amount of money—some \$144,222,328—for the construction of a canal over the Panama route; or

Third. Shall the Senate admit its incapacity and inability to determine which is the better route, and shirk its responsibility by remitting the whole subject and manner of determining as to which route shall be adopted, and incidentally, of course, the determination as to whether we shall pay the French company \$40,000,000, to one man—the President of the United States?

Proceeding, therefore, with the consideration of the first proposition, let us inquire briefly as to the provisions of the House bill, popularly known as the Hepburn bill, and which has the approval of seven of the eleven members of the Senate Committee on Inter-oceanic Canals.

This bill authorizes the President to acquire from the States of Costa Rica and Nicaragua, for and in behalf of the United States, control of such portion of territory now belonging to Costa Rica and Nicaragua, as may be desirable or necessary, on which to excavate, construct, and protect a canal of such depth and capacity as will be sufficient for the movements of ships of the greatest tonnage and draft now in use, from a point near Greytown on the Caribbean Sea, via Lake Nicaragua, to Brito on the Pacific Ocean; and such sum as may be necessary to secure such control is by this bill appropriated out of any money in the Treasury not otherwise appropriated. The amount of this appropriation, it will be observed, is not fixed, except as it is qualified by the amount necessary for the purposes indicated.

The bill further provides in section 2 that when the President has secured full control over the territory indicated he shall direct the Secretary of War to excavate and construct a canal and waterway from a point on the shore of the Caribbean Sea, near Greytown, by way of Lake Nicaragua, to a point near Brito on the Pacific Ocean. It is further provided that such canal shall be of sufficient capacity and depth so that it may be used by vessels of the greatest tonnage and draft now in use, and shall be supplied with all necessary locks and other appliances to meet the necessities of vessels passing from Greytown to Brito. And it is further provided that the Secretary of War shall also construct such safe and commodious harbors at the termini of said canal, and such provisions for defense as may be necessary for the safety and protection of said canal and harbors.

It is further stipulated in this bill that the President shall cause such surveys to be made as may be necessary for said canal and harbors, and in the construction of the same may employ such persons as he may deem necessary.

It is further a provision of the bill that in the excavation and construction of said canal the San Juan River and Lake Nicaragua, or such parts of each as may be made available, shall be used.

It is also provided in this bill that in any negotiations with the States of Costa Rica or Nicaragua the President may have, the President is authorized to guarantee to said States the use of said canal and harbors, upon such terms as may be agreed upon, for all vessels owned by said States or by citizens thereof.

The bill then, in the sixth and last section, provides for the appropriation, out of any money in the Treasury not otherwise

appropriated, of the sum of \$10,000,000 toward the project contemplated by the bill. And it is further provided that the Secretary of War be authorized to enter into a contract or contracts for materials and work that may be deemed necessary for the proper excavation, construction, defense, and completion of said canal, harbors, and defenses, the same to be paid for as appropriations may from time to time hereafter be made, on warrants to be drawn by the President of the United States, not to exceed in the aggregate \$180,000,000.

This, in brief, is the pending bill now before the Senate, which has passed the House by a vote that was unanimous with the exception of 2, which has been reported to the Senate by your committee by a vote of 7 to 4, and is now before the Senate for its consideration.

THE NICARAGUA ROUTE IS FEASIBLE.

As this bill provides for the construction of a canal over the Nicaragua route—that is, through the valley of the San Juan River in Nicaragua and Costa Rica—the inquiry is pertinent, Is that route practicable? Is it feasible? And if so, what, if any, are its advantages over the Panama route?

In view of the numerous surveys and thorough investigations of this route, not only by one, but by many, commissions and engineering expeditions, always composed of men in all respects thoroughly equipped by their scientific and other attainments for the proper performance of the important work, the question of the absolute feasibility, the entire practicability, of this route is no longer an open question. So thoroughly well has this been established that even its enemies and the friends of other routes, I believe, do not deny it, although the distinguished Senator from Ohio to-day did intimate that in his judgment there are some reasons why a canal could not be built and maintained there, and I was very much surprised, I confess, at that statement, in view of all the reports of the engineers to the contrary.

Without referring to the many earlier surveys, such as that known as the survey of Col. O. W. Childs, a civil engineer of high standing, in 1850-1852, and of several others prior to that, all of which establish the feasibility of this route, it is sufficient to attract attention to the reports of the last two commissions, namely, that known as the Nicaragua Canal Commission, organized August 2, 1898, and composed of Rear-Admiral Walker, president, Col. Peter C. Hains, Corps of Engineers, and Prof. Lewis M. Haupt, civil engineer. This Commission was instructed by the Secretary of State that their report should be—

As full and conclusive upon the subject as it is practicable to make it, to the end that "the proper route, the feasibility and cost and construction of the Nicaragua Canal" may, if possible, be absolutely fixed and determined.

For two years, lacking about two months, this Commission was engaged in the prosecution of this great work. Their report, dated May 9, 1899, leaves nothing in doubt, no element of uncertainty as to any material factor involved as to the entire feasibility of this route. I beg to incorporate in my remarks that portion of the report of this Commission bearing upon the feasibility of the Nicaragua route and the conclusions reached by the Commission. And it must be remembered the three men who composed this Commission are also members of the Isthmian Canal Commission that made the later report. They report as follows:

Under this division of the subject the Commission would respectfully submit that it has failed to find any competent authority that denies the feasibility of constructing a canal across Nicaragua.

I call the attention of the distinguished Senator from Ohio to that statement by three of the commissioners who compose the Isthmian Canal Commission and who were the sole members of the Nicaragua Canal Commission, in which they say that they have failed to find any competent authority which denies the feasibility of constructing a canal across Nicaragua. I put that statement of these three commissioners in their official report against the statement of the distinguished Senator from Ohio. But I put more than that against his statement. They give the reasons. The feasibility of the canal is conceded for the following reasons:

1. There are at this date sufficient precedents for ship canals capable of passing the largest vessels, so that any question of the navigation of such a channel is eliminated.
2. The ability to construct and operate locks of the requisite dimensions is sufficiently established by existing structures on the Manchester and Kiel canals, at Davis Island on the Ohio, and at the St. Marys Canal, Michigan.
3. The possibility of constructing the necessary dams, weirs, sluices, and embankments, which shall be sufficiently stable and impermeable to control the water required for navigation, as well as to regulate the floods, is within the resources of the engineering profession and is fully demonstrated by many hundreds of miles of embankments, levees, and dams, both at home and abroad. There is no reason to doubt the ability to build them out of native rocks and earth and to give them the required strength and tightness to retain or to discharge the water with safety.
4. There is no question as to the adequacy of the supply of water for all purposes at all seasons, nor as to its control in times of flood.
5. Neither is there any doubt with reference to the ability to secure good supporting ground for the trunk of the canal nor suitable sites for locks and dams.
6. The harbor question is only a matter of money, and it is believed that good, capacious, and safe artificial harbors can be created at a reasonable cost. In brief, the Nicaragua Canal Commission concluded, the Commission sees no reason

to doubt the entire feasibility of the project, but it realizes the necessity of exercising due care in the preparation for the specifications and in the conduct of the work, and that the details of construction be thoroughly inspected and properly executed under competent supervision.

CONCLUSIONS.

The Commission after mature deliberation has adopted and estimated for the route from Brito to Lake Nicaragua, called the Childs route, variant No. 1, and from the lake to Greytown, that is called the Lull route, variant No. 1. This line, leaving Brito, follows the left bank of the Rio Grande to near Buen Retiro, crosses the western divide to the valley of Lajas, which it follows to Lake Nicaragua. Crossing the lake to the head of San Juan River, it follows the upper river to near Boca San Carlos; thence in excavation by the left bank of the river to the San Juanillo and across the low country to Greytown, passing to the north of Lake Silico. It requires but a single dam with regulating works at both ends of the summit level.

The new location selected for the dam at Boca San Carlos eliminates one of the most serious engineering difficulties by avoiding entirely the San Carlos River, with its torrential floods and large volume of sediment, and by locking down immediately from this dam the difficulties and risks of the high embankments of the Menocal line are also avoided.

Instead of the dam at La Flor a lock and regulating works have been substituted at Buen Retiro, where the topography is well adapted for the purpose. It is also proposed to divide the surplus waters of the lake basin between the east and west sides, thus reducing the velocities in the San Juan and securing ample wasteway capacity for the maximum discharge that can ever occur, if stored and distributed over a short period of time. Ample provision has also been made for a possible fluctuation of the lake of 6 feet or more without injury to property by fixing the elevation at the bottom of the canal sufficiently low to cover seasons of minimum rainfall. The surveys have in general revealed better physical conditions than were heretofore supposed to exist, especially as to the amount of rock in the upper river, whereby it is possible greatly to reduce the estimated cost of construction. This fact will account largely for the comparatively moderate amount of the estimate when the enlarged dimensions of the project are taken into consideration. Other reductions are due to the improved methods and machinery available, as developed on Chicago Drainage Canal, and which can not be ignored in discussing a work of this magnitude.

The creation of sufficient capacious interior harbors presents no unusual difficulties, and they can be secured at a reasonable cost.

The field work under the authority of this Commission has been carefully and well done and is believed to be all that is necessary for the preliminary location of a canal and to determine within narrow limits the final location of dams, locks, and other constructions. Should a canal across Nicaragua be authorized, it will be necessary to make further minute and careful investigations by borings to determine the exact location of locks and dams, for which the Commission has neither the time nor money, nor would it have been justified in doing work of this character until the construction of a canal was assured. The computations of amounts to be excavated have been carefully made and checked to guard against errors, and are believed to be accurate within narrow limits. All possible information has been sought with regard to cost of similar work in the United States and in Central America and a careful comparison made of the probable differences between Nicaragua and the United States.

To determine the proper unit prices for excavation, the average of prices actually paid to contractors on the Chicago Drainage Canal, which represents cost of plant, prices paid for work done, and contractor's profits, were taken. Up to this point the Commission dealt only with facts. To the prices paid at Chicago certain percentages have been added for the difference in location, climate, etc. These percentages are of course a matter of judgment, upon which men may honestly differ. But from all the information obtainable by this Commission and after careful consideration, with a desire to arrive at a proper conclusion, those used in the estimate are deemed fair and reasonable.

In obtaining the estimate for cost of locks, the prices actually paid for building the Government locks at the Sault Ste. Marie were taken, and 33 per cent was added for the difference of location. This percentage is believed to be ample, as a large part of the expense of constructing the locks will be for material, much of which can be furnished in Nicaragua at the same or only a small advance upon the prices in the United States.

After giving due weight to all the elements of this important question, and with an earnest desire to reach logical conclusions, based upon substantial facts, the Commission believes that a canal can be built across the Isthmus on this route for a sum not exceeding that stated in the estimate.

The dimensions of the canal proposed are much larger than any heretofore considered, and will be ample not only to meet the present requirements of commerce, but also for many years to come. A navigable channel of smaller dimensions than those proposed, only sufficient for present needs, can be constructed for a lesser sum, if deemed expedient.

I will here remark that this report of these three Commissioners, Admiral Walker, Colonel Hains, and Professor Haupt, who constituted the Nicaragua Canal Commission and all of whom are members of the Isthmian Canal Commission, declares in the most positive and unqualified terms that the Nicaragua route is, to quote their words, "an absolutely feasible and practicable route."

The distinguished Senator from Ohio has just told us we appointed commissioners to tell us what to do, and yet when we have a commission who tell us what to do we are met with an argument here on scientific and technical grounds, or rather an assertion to the effect that a canal which this Commission of distinguished men say can be built and maintained, can not be built or maintained.

The following are the estimates of this Commission of the whole cost of construction. There were two estimates. That of Commissioners Walker and Haupt was \$118,133,790, while that of Commissioner Hains was higher by \$16,684,518, or \$134,818,308.

Soon after the Nicaragua Canal Commission had concluded their work (from whose report I have just read) another Commission was authorized by Congress, known as the Isthmian Canal Commission. This Commission was appointed January 10, 1899, a little more than three years ago. This Commission was composed of nine members. Among those were included Rear-Admiral John G. Walker, president; Col. Peter C. Hains, Corps of Engineers, and Lewis M. Haupt, civil engineer, all of whom had composed the Nicaragua Canal Commission. This Commission—that is, the Isthmian Canal Commission—made a preliminary report to the President of the United States November 13, 1900. In

that report this Commission said what I shall read—and here again I call the attention of the distinguished Senator from Ohio to what his own Commission says in regard to the feasibility and practicability of this route. I read from the report of November 13, 1900:

In view of all the facts, and particularly in view of all the difficulties of obtaining the necessary rights, privileges, and franchises of the Panama route, and assuming that Nicaragua and Costa Rica recognize the value of a canal to themselves and are prepared to grant concessions on terms which are reasonable and acceptable to the United States, the Commission is of the opinion that "the most practicable and feasible route for an isthmian canal to be under the control, management, and ownership of the United States" is that known as the Nicaragua route.

This Commission made a full and elaborate report to the President of the United States on November 16, 1901—last November. This report restated at great length and with much particularity, all of the elements, phases, and factors connected with the Nicaragua route, and reaffirmed in the most positive terms the feasibility and practicability of this route for an isthmian canal. No element of doubt remained in reference to the entire ability, from an engineering standpoint, to overcome any one of the engineering problems or difficulties to be overcome in the construction of this great work. The report, as I have said, was a distinct, clear, unambiguous, specific reaffirmation of the declarations of the various previous surveys and expeditions, to the effect that the route was practicable.

Furthermore, this Commission in this report of November 16, 1901, reached the following conclusions:

First. That "the investigations of this Commission," I quote from page 257 of the printed report, "have shown that the selection of 'the most feasible and practicable route' for an isthmian canal, must be made between the Nicaragua and Panama locations." And after discussing at some length the features and various advantages and disadvantages of the one over the other of the two routes—Nicaragua and Panama—the Commission concluded its report in the following words, page 263 of the printed report:

After considering all the facts developed by the investigations made by the Commission and the actual situation as it now stands, and having in view the terms offered by the New Panama Canal Company, this Commission is of the opinion that "the most practicable and feasible" route for an isthmian canal to be "under the control, management, and ownership of the United States," is that known as the Nicaragua route.

This Commission, in estimating the cost of the construction of the canal on the respective routes, taking into consideration the work done on the Panama route and without including the cost of concessions from the Governments of Colombia and Nicaragua and Costa Rica, respectively, have stated the same in the following language, page 261 of the report:

The cost of constructing a canal by the Nicaragua route, and of completing the Panama Canal, without including the cost of acquiring concessions from the different Governments, is estimated as follows:

Nicaragua	\$189,864,062
Panama	144,233,358

For a proper comparison there must be added to the latter the cost of acquiring the rights and property of the New Panama Canal Company. This Commission has estimated the value of this in the project recommended by it to be \$40,000,000.

This Commission, in discussing the concessions necessary to be obtained from the Republic of Colombia on the Panama route and from the Republics of Nicaragua and Costa Rica on the Nicaragua route, make the following observations as to the two respectively. I ask the attention of the Senator from Ohio and other members of the minority of the committee to these statements of the Commission:

First. The Republics of Nicaragua and Costa Rica are entrained by no existing concessions or treaty obligations, and are free to grant to the United States the rights necessary for the attainment of these ends, and in December, 1900, demonstrated their willingness to have their territory so occupied by the United States by executing protocols, by which it was agreed that they would enter into negotiations to settle in detail the plan and agreements necessary to accomplish the construction and provide for the ownership of the proposed canal, whenever the President of the United States is authorized by law to acquire the necessary control and authority.

Second. The Government of Colombia, on the contrary, in whose territory the Panama route lies, has granted concessions which belong to or are controlled by the New Panama Canal Company and have many years to run. These concessions, limited in time and defective in other ways, would not be adequate authority for the purposes of the United States. But while they exist Colombia is not free to treat with this Government. If the Panama route is selected these concessions must be removed in order that the two Republics may enter into a treaty to enable the United States to acquire the control upon the terms that will be necessary and to fix the consideration.

No further citation or argument is necessary to show beyond all question the entire feasibility of the Nicaragua route for the isthmian canal.

SEVENTEEN REASONS WHY THE NICARAGUA ROUTE IS PREFERABLE TO THE PANAMA ROUTE.

I now propose, Mr. President, to give seventeen reasons why, in my judgment, it is the duty of the Congress to select the Nicaragua route. The advantages of this route over the Panama route may be summarized as follows:

First. Because, for the commerce in which the United States is mostly interested, that between our Pacific coast and Atlantic

ports and European and American, the Nicaragua route is shorter by 600 miles, or one full day in going and coming by steamers, and the same advantages exist between our Atlantic ports and ports of the Orient.

This, too, Mr. President, is not my statement, but the statement of the Isthmian Canal Commission in their report of November, 1901.

The distinguished Senator from Ohio says he is in favor of the shortest route. So am I in favor of the shortest route, and therefore I am in favor of the Nicaragua route, which is 600 miles shorter than the Panama route he advocates.

Second. The construction of the canal on "the Panama route will," as stated by the Isthmian Canal Commission—here again I quote from the Commission—

be simply a means of communication between the two oceans, * * * and the natural features of the country through which the route passes are such that no such considerable development is likely to occur as a result of the construction and operation of the canal—

While, as stated by the Commission—

in addition to this use as a means of communication between the two oceans, a canal by the Nicaraguan route would bring Nicaragua and a large portion of Costa Rica and other Central American States into close use and communication with the United States and that of Europe. The intimate business relations—

Continue the Commission—

that would be established with the people of the United States during the period of construction, by the expenditure of vast sums of money in those States, and the use of American products and manufactures, would be likely to continue after the completion of the work to the benefit of our manufacturing, agricultural, and other interests.

Here, again, the Commission in their main report, before they changed base all of a sudden for some reason or other, which was, of course, a reason satisfactory to them, drew a comparison between these two routes and gave their reasons in unmistakable terms in favor of the Nicaragua route. No question of consideration or compensation or price entered into the determination of that particular matter. They said it is the best route. Why is it the best route? For the reasons stated here:

Third. The freedom from epidemics, the general condition of health, the hygienic advantages generally, are largely in favor of the Nicaragua route. This is fully and completely demonstrated, not only by the report of the Isthmian Canal Commission, but by overwhelming testimony from various other sources. In their report of November 16, 1901, page 170, the Isthmian Canal Commission, in comparing the climate and health conditions of the two routes, say this. I quote from the report:

The climate of the isthmian canal regions is generally damp and enervating. The temperature is not extreme, rarely rising as high as 95° or falling below 70°, but the excessive humidity greatly restricts the capacity for physical exertion. The lowlands near the coast have long been known as insalubrious, and the seaports are subject to fevers. Perhaps the greatest difficulty to be encountered in the construction of the canal will be the procurement of an adequate force of laborers and the preservation of their health and efficiency.

In this respect the Panama route has a lugubrious history—

And it is the report of the Commission I am reading from—

from which the Nicaragua route is free. The notorious mortality which attended the construction of the Panama Railroad, and later the operations of the Panama Canal Company, has taught a lesson which will not soon be forgotten for that route.

The Panama route.

Among the white employees of this Commission sent to Nicaragua there were fewer cases of sickness than there would probably have been among the same number of men employed in some parts of the United States. Among those sent to Panama the proportion of sick was greater. On the Nicaragua line, during the operations of the Maritime Canal Company, the health of the force was reported to be good. * * * In Nicaragua the trade winds are more liberal than at Panama, tempering the heat and removing miasma more effectively. * * * It is stated by Bunau-Varilla, at one time chief engineer of the old Panama Canal Company, that out of 100 individuals sent to the Isthmus, not more than 20, as an average, could remain there, and even those lost a part of their value. The negro alone could perform manual labor; the white man must supervise and direct. After costly and fatal experiments with other races, the company ceased sending to the Isthmus as laborers any but native Colombians and negroes from the British Antilles, particularly Jamaica. The Panama Railroad Company grants to its white employees from the United States two months' leave of absence each year, with transportation to their homes.

Some idea of the fearfully unhealthy condition of the Isthmus of Panama along the route of the proposed Panama Canal may be obtained by a reference to the report of the liquidator of the old Panama Canal Company made in 1890, in which he designates the expenses for hospitals, sanitariums, sanitary and medical expenses from 1881 to 1890 at the enormous sum of 9,183,657.84 francs. This sum total was made up of the following items:

Construction of central hospital	Francs. 3,415,852.13
Hospital at Colon	375,999.60
Construction of houses on line	83,155.80
Amperador houses	33,272.53
Sanitarium at Toboga	655,606.80
Cemetery at Panama	23,184.23
Expenses central hospital	2,046,014.06
Expenses Colon hospital	1,203,895.01
Expenses Toboga sanitarium	896,415.63
Expenses on line	188,845.80
Expenses before establishing hospitals	99,134.66
Purchase of medicines	680,411.09

In this connection I desire to attract the attention of the Senate to the testimony bearing upon the question as to the comparatively healthy condition of the Nicaragua route. I quote first from the testimony of Gen. Edward Porter Alexander. It will be found on page 982, part 3, of the Hearings. This testimony was taken March 8 last before the Inter-oceanic Committee of the Senate, and is as follows:

Gen. EDWARD PORTER ALEXANDER appeared and was duly sworn by the chairman.

The CHAIRMAN. General Alexander, you are a civil engineer?

General ALEXANDER. Yes, sir.

The CHAIRMAN. How long have you been engaged in that pursuit?

General ALEXANDER. I graduated at West Point in the Corps of Engineers in 1857, and have been more or less at civil or military engineering, railroad-ing, and kindred matters ever since.

The CHAIRMAN. You are not now in the United States Army?

General ALEXANDER. No, sir.

The CHAIRMAN. You resigned from the Army?

General ALEXANDER. I resigned at the breaking out of the war and served in the Confederate Army.

The CHAIRMAN. During the time of your service in the United States Army as an engineer, did you have anything to do with public works of importance?

General ALEXANDER. No, sir; all my services was with the engineer troops in the field.

The CHAIRMAN. After the civil war was over, did you have any connection with enterprises of a public character?

General ALEXANDER. After the civil war I was first professor of engineering and mathematics in the University of South Carolina for four years, and then I went to railroad-ing, and I was engaged in railroad-ing, generally as manager of roads with engineers doing work under me, for some twenty years, more or less. Since then I have been on two governmental commissions, one on the improvement of The Dalles of the Columbia River, The Dalles and Salido Falls in Oregon, and one commission on the connection between the Chesapeake Bay and the Delaware Bay. These were joint commissions of civilians and Army and Navy officers generally. Then for three and a half years I was employed as engineer arbitrator of the boundary survey between Nicaragua and Costa Rica by those two Governments.

The CHAIRMAN. Where did you reside during the time you were thus employed by Nicaragua and Costa Rica?

General ALEXANDER. My headquarters were generally at Greytown, Nicaragua.

The CHAIRMAN. And how much of your time did you spend there?

General ALEXANDER. I suppose I spent three-fourths of the time there.

The CHAIRMAN. For how many years?

General ALEXANDER. Three and a half years.

The CHAIRMAN. You had your residence there, then?

General ALEXANDER. Yes.

The CHAIRMAN. Did you have your family with you?

General ALEXANDER. No, sir.

The CHAIRMAN. How did you find the health conditions of Greytown during your residence there?

General ALEXANDER. I found them very good, indeed; never lived in a place that had less malaria.

The CHAIRMAN. Is there much population in Greytown?

General ALEXANDER. No, very small; only about 1,400.

The CHAIRMAN. What years were these?

General ALEXANDER. 1897, 1898, 1899, and part of 1900.

The CHAIRMAN. What do you think of that region of country, including Costa Rica and other parts of Central America that would be accessible commercially to the canal, as a feeder to the canal, the income of it?

General ALEXANDER. I think it ought to be one of the richest tropical countries in the world.

The CHAIRMAN. Capable of sustaining large population?

General ALEXANDER. Yes.

The CHAIRMAN. What would you expect from the health of the people?

General ALEXANDER. There is no trouble about the health anywhere in that country, I think.

The CHAIRMAN. You found it healthy?

General ALEXANDER. I found it so, entirely.

The CHAIRMAN. Did you have as good health there as you had at home in South Carolina?

General ALEXANDER. Entirely so; yes, sir.

Senator MITCHELL. That condition as to health applies to both sides of the divide, does it?

General ALEXANDER. Yes, sir.

The CHAIRMAN. Are there extensive or valuable mineral resources in that region of country?

General ALEXANDER. I do not think anything to amount to a great deal. Gold is worked in several places. That is the only thing that I heard of, and nothing very extraordinary in that, but there are a number of small but profitable gold mines.

The CHAIRMAN. How much timber in the country?

General ALEXANDER. Unlimited timber.

The CHAIRMAN. Is it good timber?

General ALEXANDER. Yes; there is mahogany and cedar, and I forget the names of all the different kinds, but there is unlimited timber.

The CHAIRMAN. Is it in heavy, thick forests or is the timber scattered?

General ALEXANDER. Very thick indeed; one mass of forest over everything.

The CHAIRMAN. Large, tall trees?

General ALEXANDER. Enormous trees.

The CHAIRMAN. How about india rubber?

General ALEXANDER. There was quite a good quantity of india rubber constantly being gathered all the while I was there. Every merchant nearly in town had a few rubber getters who were paid to go into the woods. These rubber getters would go into the woods and be gone a month or two and come back with rubber which they would sell and then go out again. That was going on all the while.

The CHAIRMAN. Would you say it is a country that is likely to be very productive in rubber?

General ALEXANDER. I see no reason why rubber plantations should not be very profitable there. There was some work done while I was there in one or two places on the river above Greytown that were being planted in rubber trees, and I have heard of rubber plantations started near Bluefields. I saw one small rubber plantation over at Jenotepe on the Pacific side.

The CHAIRMAN. Have you ever visited Panama?

General ALEXANDER. Yes.

The CHAIRMAN. How often and when?

General ALEXANDER. I crossed the Isthmus in 1860, going west, and came back in 1861, and then in 1900 I spent a week at Panama, crossed the Isthmus. I went up to San Juan del Sur after spending a week at Panama.

The CHAIRMAN. You mean the city of Panama?

General ALEXANDER. Yes.

Senator MITCHELL. What time in 1860 did you cross?

General ALEXANDER. I went out in August, 1860, and came back in May, 1861.

Senator MITCHELL. The reason I asked you is because I crossed in May, 1860.

The CHAIRMAN. In going out you landed at Colon?

General ALEXANDER. Yes.

The CHAIRMAN. And took the railroad?

General ALEXANDER. Yes.

The CHAIRMAN. The railroad was completed through, was it?

General ALEXANDER. Yes.

The CHAIRMAN. And in coming back you landed at Panama, and took the railroad across to Colon?

General ALEXANDER. Yes.

The CHAIRMAN. Now, during the time you stayed at Panama what was the condition of the health of that town?

General ALEXANDER. It was very bad indeed. There was yellow fever in the town and also what they call Chagres fever.

The CHAIRMAN. What year was that?

General ALEXANDER. 1860; and there was said to be a great deal of sickness among the troops that they had there. I knew nothing about that except what was told me.

I also attract attention to the testimony of Chester Donaldson, American consul for a long time at Managua, Nicaragua, taken before the Senate committee June 7, 1900, found in Senate hearings, part 3, page 994. Mr. Donaldson testified as follows:

By the CHAIRMAN:

Q. What office are you at present holding?

A. I am United States consul at Managua, Nicaragua.

Q. How long have you been in that office?

A. Since January 12, 1898.

Q. During that period of time have you resided in Managua?

A. Yes.

Q. Had you resided there before that?

A. Yes.

Q. How long?

A. I had resided there about two years before.

Q. In what capacity did you first visit Nicaragua?

A. In connection with the commission of 1895—General Ludlow's commission.

Q. Were you a member of that commission?

A. No; but I was employed by the commission.

Q. In what character?

A. As an engineer.

Q. Are you a civil engineer?

A. Yes.

Q. In what schools have you been educated?

A. Hamilton College is where I got my education—Clinton, N. Y., near Utica.

Q. Did you attend any other engineering schools?

A. I took a short course in Columbia School of Mines.

Q. I suppose your travels with the engineering parties you accompanied through the San Juan region have given you an opportunity to be stricken with any diseases of that country?

A. Yes; I have had plenty of opportunities. I have slept in all sorts of places.

Q. Slept in wet clothes?

A. I will not say I slept in wet clothes, because I always carried a bundle wrapped in rubber, so that I could have something dry to wear for the night. I have gone all day in wet clothes, have put on wet clothes in the morning, and have done so for months at a time; but at night I have always had dry pajamas to get into and a dry blanket, which I kept rolled up in a rubber sack.

Q. That was during your engineering work?

A. Yes.

Q. Were any of your party troubled with malaria or chills?

A. Nobody in our party had any sickness at all. We had 10 Americans in the party, besides natives.

Q. Taking Nicaragua from ocean to ocean, would you be willing to say that it is a healthful or an unhealthy country?

A. I should say that the country is perfectly healthful. The only unhealthy places are the cities, and that is owing to their filthy condition.

Q. You have a family of children?

A. I have three children.

Q. And they have been brought up in that country?

A. They have been in better health in that country than when they were in New York. My youngest little girl in this country had a bronchial trouble after she had had the whooping cough in New York at the age of 3, and naturally I felt somewhat anxious about taking her to Nicaragua. But she has come back to New York and is to-day one of the strongest little girls you ever saw—at the age of 8 now.

Q. Taking Nicaragua from ocean to ocean, through and through, you would say, I suppose, that it would be a very valuable country in the hands of people who had any industry and thrift?

A. Yes. By nature it is a rich country and perfectly healthful. There is nothing under the sun they need there but industry. It would make a fine country to live in.

Q. For small farmers, particularly?

A. Yes; you can get a splendid climate there by going up 2,000 feet, where you would not suffer from heat at all. It is only in the low country where you suffer. I have suffered much more in New York from heat than I ever have in Managua. There is nothing the matter with the country; there is nothing the matter with the climate; the whole difficulty lies with the people. They are too easy-going; they take life very easily.

I also, upon the point of the health of the respective routes, quote from the testimony of the Hon. William B. Sorsby, long United States consul at Nicaragua under the present Administration, as follows:

WILLIAM B. SORSBY, having been duly sworn, testified as follows:

Senator MORGAN. State your place of residence and the business in which you are now employed.

Mr. SORSBY. My home is in Clinton, Hinds County, Miss. I am at present United States consul at Greytown (San Juan del Norte), Nicaragua.

Senator MORGAN. How long have you been in the consular service?

Mr. SORSBY. I was in the consular service four years under the Harrison Administration, and I have been in the service thirteen months under this Administration. I was four years in Ecuador under the Harrison Administration, and I have been thirteen months in Nicaragua under the present Administration.

Senator MORGAN. Do you speak the Spanish language?

Mr. SORSBY. Yes, sir.

Senator MORGAN. When did your term of service in Nicaragua commence?

Mr. SORSBY. I entered on my duties on the 1st day of January, 1898.

Senator MORGAN. How about the health of that region between the lake and the seaboard?

Mr. SORSBY. I can only answer that by referring to the men employed by the Nicaragua Canal Commission.

Senator MORGAN. Have no people settled in that region?

Mr. SORSBY. There are some settlements immediately on the river banks and up the various rivers emptying into the San Juan River.

Senator MORGAN. Leading into, you mean?

Mr. SORSBY. Leading into the San Juan River. I have seen a great many of those people—some foreigners are in there—living on the San Carlos and various other rivers leading into the San Juan River, and the universal expression is that it is healthy.

Senator MORGAN. Is there any yellow fever or Chagres fever in that country?

Mr. SORSBY. There is no yellow fever in any part of Nicaragua.

Senator MORGAN. Is there any chagres fever?

Mr. SORSBY. No, sir; nothing that resembles either yellow or chagres fever on the Atlantic side. There is no yellow fever in any part of Nicaragua, though at Granada and Managua they have malarial fevers. They are quite prevalent during what is known as the dry season up there.

Senator MORGAN. That is on the lake?

Mr. SORSBY. Yes, sir; on the two lakes. It is attributed to the bad sanitary conditions and the water that is used.

Senator MORGAN. If I understand you correctly, the valley of the San Juan River is very sparsely inhabited?

Mr. SORSBY. Yes, sir.

Senator MORGAN. Is the forest heavy?

Mr. SORSBY. The undergrowth is very heavy.

Senator MORGAN. Almost impenetrable?

Mr. SORSBY. Yes, sir.

Senator MORGAN. What is the effect of the rainfall in that part of Nicaragua upon the health and comfort of those living in that region?

Mr. SORSBY. I think it is beneficial to health. It is inconvenient. It has the effect of keeping fresh water in all the lagoons there. The engineers of the Canal Commission tell me that they drank their water out of the lagoons and streams and it was good. In Greytown it serves to freshen the atmosphere, and there is very little sickness during the rainy season.

Fourth. The engineering problems on the Nicaragua route are susceptible of complete and satisfactory solution. In no particular is there any element of doubt remaining. While those on the Panama route are clearly in the experimental region. There is, as to certain difficulties to be overcome on the Panama route nothing in the past history of engineering experience which can be invoked to render the solution of the problems an absolute certainty. These relate mainly to the power to successfully control the waters of the Chagres River, and to the possibility of maintaining a dam at Bohio.

Fifth. The construction of the canal on the Panama route excludes sailing vessels from transisthmian navigation, while the Nicaragua would not, the reason being on account of the calms, or doldrums, extending through many months for long distances on the Pacific side of the Panama route, while good sailing winds at each end of the Nicaragua route are experienced the whole year.

SAILING SHIPS.

To select the Panama route is to eliminate from the instruments of commerce that shall traverse the canal all sailing vessels, while to select the Nicaragua route is to bring into close and acute competition the vessels driven by steam and electricity with those driven by the everlasting winds of heaven. It is demonstrated beyond any question that for many months of each year the calms or doldrums extend out on the Pacific coast a distance of more than 400 miles from Panama, and no sailor can make any progress through these long distances of from 400 to 600 miles, and through which calms ships must necessarily go in order to enter and pass through a canal on the proposed Panama route, except by steam or other motive power than wind.

But the advocates of the Panama route, while compelled to accept these facts, respond in substance and effect, by way of answer, "Oh, the day of the sailer is past," and they point to the fact that no sailing craft pass through the Suez Canal as an argument to support the assertion. As to this point it is only necessary to point out the different conditions attaching to the two routes—that is, the Suez and the Nicaragua routes. The exclusion of sailers from the Suez Canal is occasioned by the constantly variable and conflicting winds and particularly tortuous and narrow channel of the estuary known as the Red Sea. This condition renders it inadvisable, unsafe, and impracticable for sailers to enter the Suez Canal.

But the assertion that the day of the sailer is past is an unwarranted one, and it is to be hoped, in the interest of the world's commerce, the day will never come when sailing vessels on our high seas will be dispensed with. The fact is, over 60 per cent of the marine tonnage of the United States is to-day composed of sailing vessels. According to the latest official reports the total tonnage of the United States at present is 2,095,000 tons, and but 810,000 tons of this tonnage is steam, while 1,285,000 tons is sailing crafts. Some other seafaring nations have a still larger per-

centage of sailing vessels. Norway and Sweden have a total tonnage of 1,770,000, of which but 726,000 tons, or less than 40 per cent, is steam.

Nor is it true, as is sometimes contended, that the use of sail vessels is on the down grade. This statement is either a misconception or a misrepresentation of existing facts. The very reverse of this is true. Improvements are constantly being made in not only the construction but in the manner of controlling sail vessels. It is true that some of the old square-rigged, two or three mast sailers are going out of use, but in their stead are being placed iron sailers of different build and of greater capacity.

The necessities of the American coastwise traffic are rapidly developing a great fleet of four, five, six, and seven masted schooners of American register. These are rapidly increasing in number. Numerous vessels of this character of from three to five thousand tons burden are being built in the shipyards of this country, notably in those of Maine and Massachusetts. Fifteen were constructed in Maine last year. There is now about completed, I understand, near Boston, a seven-masted steel schooner named *Thomas W. Lawson*, with a coal-carrying capacity of 8,000 tons. Germany is moving also in this direction, and has but recently added to her merchant marine a sailer of 5,000 tons burden, while France in 1901 built 40 steel sailing ships, with an aggregate tonnage of 90,000 tons—two of these register 2,300 tons each, with a carrying capacity of 5,000 tons each—while, during the same period, no progress whatever was made in steam tonnage in that country, and France is now to-day offering a large bounty for this class of vessels.

A glance at the history of the growth and progress of American marine tonnage, steam and sail, will show a gradual but constant advancement in both. Sixty years ago the whole number of ships entering New York Harbor was 1,843, and only 6 of these were steamers—1,837 sailers. The total tonnage brought in these sailers was 494,493 tons, showing the average carrying capacity of the sailers of those days to be but a fraction over 271 tons. A few vessels, of course, were of larger tonnage, but this was the average.

The selection of the Panama route is to call a halt in the ship-building industry of this country in so far as it might otherwise relate to the construction of sailers for transisthmian trade, and at the same time strike down all competition between sailers and steam vessels in use so far as transisthmian commerce is concerned. The whole country, and, in fact, all commercial nations, but especially and particularly the Pacific coast States of our own country, are vitally interested in the question of the construction of an isthmian canal on a route which will make it possible for sailing vessels to enter and compete with steamers in the carrying trade of our own and other countries. The great timber interests of the Pacific coast, a market for which is gradually opening on the Atlantic seaboard and in the South American States, as well as the interior, must as a rule be carried in sailers, as their construction enables them to stow timber of unusual lengths, which is the leading desirable quality of the Pacific coast product. Peculiarity of construction precludes in a great measure the ordinary steamer from carrying this class of products.

Another vital objection to the Panama route which will affect adversely those interested in the two great products, wheat and coal, is this fact: Possibly future development may demonstrate a sufficient supply of bituminous coal on the Pacific coast to meet the demands of that section. At present this is not so, and as the population increases and business develops the quantity required will largely increase. At present the import supply comes largely from Canada and England, chiefly from the latter as ballast, at a low rate of freight, in steamers calling for wheat.

American coal from the Atlantic coast can not now compete with this supply. Our wheat is now shipped to Liverpool mostly by steamers flying the British flag. They reach the Pacific ports mainly in ballast. Sometimes they ballast with English bituminous coal, coke, and pig iron, placing them on the market at a nominal freight charge. On account of the detriment caused by heat and moisture in the calm belts of the Tropics this wheat goes mostly in steamers. These are known as the English tramp steamers and are the all-around carriers of the world—ships that can enter the average ports of the world and pick up traffic anywhere and take it anywhere. They are from two to three thousand tons burden, drawing, as a rule, from 18 to 25 feet of water.

Now, if this wheat traffic should be carried through an isthmian canal by sailers, there can be but little doubt that a very large proportion of the wheat traffic between the Pacific coast ports and Liverpool would be controlled by sailing vessels. And if this sail marine can be introduced as a factor in the proposition, it would surely result in a very large reduction of freight charges to the people of the United States and especially to those of the Pacific coast.

But, aside from the fact that it will be a physical and marine impossibility for sailing vessels to engage in transisthmian trade

through a canal located on the Panama route, for the reasons just stated, another insurmountable objection attaches to the traffic of the two important products, wheat and coal. Wheat on either steam or sailing vessels can never survive the terrible heat and doldrums, if compelled to pass through a Panama canal, while there is a constant liability of spontaneous combustion of bituminous coal in passing through the Tropics. Underwriters are now throwing many obstructions in the way of obtaining marine insurance on vessels carrying coal into the Tropics.

The production of coal in the various countries of the world and its distribution among the various people of the world who consume coal is one of the most powerful factors, and becoming more so every day, which enters into the world's commerce. Indeed this product in different sections of our own country and its exportation from the coal-producing regions of our own country to those regions of our own country where the consumption is largely in excess of the production is one of the most important elements of our domestic commerce.

The United States since 1899 has taken the lead among the nations in the production of coal, and since 1891 in the consumption of coal. Until 1899 Great Britain led in the production of coal, but in that year the United States exceeded Great Britain in coal production to the extent of 6,458,783 tons, while in 1900 the United States produced 50,000,000 tons more than it did two years before and led Great Britain to the extent of about 15,000,000 tons. Since 1870 the world has increased its output of coal 288 per cent; Great Britain 120 per cent, and the United States 750 per cent. Thirty-four years ago Great Britain produced more than 50 per cent of the whole annual output of the world and the United States but 14.35 per cent; while two years ago Great Britain produced but 30 per cent, while the output of the United States was 32 per cent of the total.

In 1900 the total output of coal in the world was 844,680,413 tons, while of this the United States produced 269,881,827 tons, or within a fraction of one-third of the total output of the world. In 1868 the United States consumed but 100,272,000 tons, or about 1.75 tons per capita; while in 1899, thirty-one years later, we consumed 226,883,000 tons, or 2.98 tons per capita. This per capita exceeds that of any nation except Great Britain, where the per capita consumption in 1897 was 3.87 tons. The fact that the United States is forging ahead in both production and consumption, and the further fact that Great Britain, Germany, and Belgium now produce about 60,000,000 tons annually more than those countries consume, and the further fact that Russia, Sweden, France, Italy, Austria-Hungary, and Spain consume about 20,000,000 tons more than they produce, leaving a balance of about 40,000,000 tons to be exported annually from Europe, present problems of immense importance in connection with the transportation and commerce of the world.

While the production of coal in the Pacific Coast States may not, and in all probability will not, ever meet the demands for that article on that coast, especially when a demand for export coal may for many years continue in the Philippines, in Hawaii, and in China, there is no good reason why the amount necessary to meet this demand should come from Canada or from Great Britain, or Germany or Belgium, or any other place except from the prolific coal regions of our own country. We should and will in a very short time in this matter of coal be able not only to meet our own demands in every section of the country, but we will be able to supply the demands of Sweden, France, Italy, Austria-Hungary, and Spain; in fact, we are already becoming a large coal-exporting country. But a few years ago there was no export of coal from the United States, but now the American anthracite coal is being shipped to France, Germany, and Belgium, while bituminous coal is being shipped from the United States to Italy and other countries.

The Russian Government has been negotiating but recently for a large amount of American coal for use in the Russian navy. During the year 1900 American coal was shipped to 37 foreign ports, including Cape Town, Algiers, Japan, Manila, Australia, Italy, Halifax, and even to Gibraltar for use in the British navy, and also the ports of the east and west coasts of South and Central America. Korea, Victoria, Queensland, New Zealand, South Australia, and Tasmania all import much more coal than they export.

But this is balanced by New South Wales, which exports enough to balance these imports. But it must not be forgotten that the Philippine Islands have now, and perhaps will have for many years, a large demand for coal, although it is probable, from what has been learned, that valuable coal mines will later on be developed in those islands. The United States should meet this demand, and would with the completion of the Nicaragua Canal. A large per cent of the Philippines is supplied by Great Britain, Japan, Australia, and the United States, but there is more English and Welsh coal shipped annually to the Philippines than there is Japanese and Australian, and again there is more Japa-

nese and Australian imported into the Philippines than there is American coal.

Are not, then, the production and consumption of coal tremendous factors in the world's commerce? Does it require any prescience or superior knowledge to determine as to the incomparable importance to the United States in this connection with this one item of the world's commerce—of the speedy construction of the Nicaragua canal? And to no section of our common country will the benefits be so incalculable as to the Pacific coast States. Our immense products of wheat, lumber, fish, fruits, wool, and grains, beyond our demands for home consumption, will find a safe and speedy market, not only along the Eastern coast of the United States, but in Europe, South and Central America, and elsewhere.

The demand for lumber in all its varieties is gradually and rapidly increasing all along the eastern portions of the United States, and also in South America. Their forests are being rapidly exhausted. But turning to the Pacific States, we find forests almost inexhaustible of the finest timber that ever grew. In the States of Oregon and Washington alone there is to-day standing, according to the latest statistical reports, more than 430,000,000,000 feet of magnificent timber. The major portion of this timber in Oregon and nine-tenths of it in Washington, is located west of the Cascade Mountains and in close proximity to the shipping ports of the Pacific Ocean. Sixty per cent or more of this timber west of the Cascade Range is red or yellow fir. For single-stick topmasts or square-rigged vessels, and the masts fore and aft, no timber in the world equals this fir, or, as it is sometimes called, "Oregon pine."

In Oregon and Washington clear, straight-grained decking, free from sap, can be had in any desired length. This timber is now largely used for sheathing bottoms of steel ships. The supply in Eastern States for long lengths and large sections in dimension timber is rapidly decreasing, and the demand at increased prices for this product from the far West is rapidly increasing. Clear cedar for building small boats is almost exhausted in the East, and cypress and white pine are being substituted. The Oregon and Washington cedar and fir have straight, clear lumber of any width and length desired. This production, with the Nicaragua Canal completed, can be brought in sailing vessels to our Eastern ports at reasonable rates, where it would soon take the place of white pine and cypress and be used in a great variety of structures.

But not only so. On the coast alone, in the State of California, in the northern part of that State, there is, according to statistical experts, standing to-day more than 75,000,000,000 feet of redwood. That this wood, so desirable, beautiful, and easily manufactured, would, with the completion of the Nicaragua Canal, soon take the place of Eastern pine and other woods goes without saying. The construction of this canal will open to market the 500,000,000,000 feet of fir, cedar, redwood, and also an almost incalculable amount of hemlock, spruce, maple, larch, and myrtle, and the products manufactured therefrom, and all of which are easily accessible to the seaports of the Pacific Ocean. I tell my distinguished friend from Ohio that not one sailing vessel can ever pass through the Panama Canal, if one should be built.

Mr. BURROWS. Why not?

Mr. MITCHELL. If my friend the genial Senator from Michigan had been here and listened to my speech, he would have known why.

Mr. BURROWS. I admit that that is true, but I want to know why not.

Mr. MITCHELL. I can not go back and repeat at length, but I will tell the Senator from Michigan, briefly, why not. There are a good many reasons, but I will indicate some of the more important of them. It is settled beyond all controversy by expert testimony taken before our committee and by the history of the world that from four to six hundred miles out into the Pacific Ocean from Panama there are what are called doldrums or calms which are continuous for months and months at a time, through which no sailing vessel can go unless moved by either electricity or steam, or some other power besides the wind of heaven. That is one reason. Another reason is because, as between the two routes, the Nicaragua route for a sailing vessel is fifteen days shorter and for steam vessels it is 600 miles shorter. Those are two of the reasons.

Mr. HANNA. May I interrupt the Senator?

Mr. MITCHELL. Certainly.

Mr. HANNA. May I ask the Senator from what objective point he makes those figures?

Mr. MITCHELL. I make it from San Francisco or Portland, Oreg., to various ports on the Atlantic coast.

Mr. HANNA. I will answer that to-morrow.

Mr. MITCHELL. I will come to that a little later on more specifically. I will say that the difference in distance in favor of the Nicaragua route is from 377 miles to 579 miles between San

Francisco and ports on the Atlantic coast; that is, New York and New Orleans, respectively.

Mr. HANNA. The Senator mentioned fifteen days. Where did he get that figure?

Mr. MITCHELL. It would take sailing vessels from fifteen to forty days longer to go by the Panama route than by the Nicaragua route, if sailing vessels could go by that route at all. That is the testimony of some of the experts in this case. It is possible by waiting and catching on occasional breeze a sailor may get through from fifteen to forty days.

Sixth. Because of the commercial advantages of the Nicaragua route over those of the Panama route because of the prospective local development in the production of an infinite variety of valuable products indigenous to that country, such as coffee, sugar, rice, corn, rubber, bananas, indigo, cocoa, vegetables of all kinds, hard woods, mahogany, cedar—red and white—several varieties, besides cattle. In this respect the prospect for development is wonderful. One witness, Mr. Lyman E. Cooley, the engineer and constructor of the great Chicago drainage canal, in his testimony taken before the Senate Committee, compared Nicaragua, Honduras, and Costa Rica, an area of fifty to sixty thousand miles tributary to the Nicaragua Valley, to the island of Java, which, with an area of but 47,000 square miles, supplies a population of 24,000,000 people. Along the Panama route there could be no hope for any local development in trade or commerce to amount to anything.

Seventh. The military and naval advantages to the United States are very largely in favor of the Nicaragua route.

Eighth. If we cast our lot with the people of Colombia on the Panama route, we take up our abode with a revolutionary, hostile, and unfriendly people. More than 30,000 of these people are already occupying the canal belt at Panama, and they must be dealt with; they must be expelled; while within the limits of the canal concession on the Nicaragua route there is not to exceed 2,500 people, and they are not an objectionable population.

Ninth. The opportunity afforded for the cleaning of ships' bottoms of barnacles and other accretions by going 103 miles through fresh water, averaging 200 feet in depth, of Lake Nicaragua is a great advantage in favor of the Nicaragua route and one not to be overlooked. On the Panama route the distance of fresh water navigation is but 12 miles, in water not 40 feet in depth.

Tenth. On the Nicaragua route we encounter no trouble in securing the necessary concessions from Nicaragua and Costa Rica for our great purpose of constructing, maintaining, and controlling an isthmian canal through those countries, hampered by no unreasonable conditions or restrictions; while with Colombia the very reverse of all this is true. The protocol of the proposed treaty, presented to the Senate for its consideration, is in many respects so unjust and humiliating in its terms and hedged about by so many unreasonable and unjust restrictions that it would seem quite impossible that any American, much less any American Senator, would think for a moment of accepting it.

Eleventh. The selection of the Panama route carries with it the necessity of paying the New Panama Canal Company \$40,000,000, and by which we become involved in all the conflicting claims of the share and bond holders of the old Panama Canal Company, as well as of the New Panama Canal Company, and we become the heir and residuary legatee of controversies from which we are not likely to become wholly extricated in the next century. And this is true, even on the assumption "that a satisfactory title to said property can be obtained," and in this connection it might be proper to inquire just what we are to understand by a "satisfactory title." This is the language used in the Spooner amendment, and I take it the distinguished Senator means that the title must be satisfactory to the President of the United States. The President would very naturally, as would most men, regard a legal title as a "satisfactory title," and in most cases a legal title ought to be very satisfactory; but there are exceptions, and this is one of the exceptions, and a most important one.

For, while the New Panama Canal Company may possibly, in the judgment of eminent lawyers, be able to make a good legal title to the property in question, this is a case where, unquestionably, innumerable claims based on moral and equitable grounds may, and in all probability will, arise if the United States becomes the beneficiary of that property, and these are claims against which no legal title will indemnify us. And I go further—even conceding, for the sake of argument, that there may be no such equitable claims existing as could be rightfully enforced in a court of justice—there is nothing to prevent these French stockholders and bondholders from coming to the Congress of the United States with such an appeal as to give them a standing before Congress, and before the committees of Congress, to harass and annoy us for perhaps a century.

Mr. FAIRBANKS. Mr. President—

The PRESIDING OFFICER (Mr. CLAY in the chair). Does the Senator from Oregon yield to the Senator from Indiana?

Mr. MITCHELL. Certainly.

Mr. FAIRBANKS. Does the Senator discuss further the nature of the claims that could be asserted against the United States if we purchase this property and obtain satisfactory title?

Mr. MITCHELL. I do.

Mr. FAIRBANKS. Then I will not interrupt the Senator further. I think it is a very important question, and I should like the Senator to show to us clearly and comprehensively the grounds upon which such claims could be enforced against the United States, either morally or in a court of equity.

Mr. MITCHELL. I will endeavor, before I conclude, to show that very thing. That is to say, that there will be strong reasons to justify the assertion of innumerable claims based upon the ground that the United States has become the beneficiary of a property their money created, and of which property they have been deprived by questionable judicial and other means, although claimants might not be able to enforce them.

Mr. FAIRBANKS. I inquire simply for information.

Mr. MITCHELL. It is one of the things I started out to present to the Senate. I shall endeavor to do it before I conclude.

Twelfth. The Nicaragua route is preferable for the reason that the sea approaches to Greytown, on the Atlantic, and to Brito, on the Pacific, on the Nicaragua route are infinitely more preferable, being freer from both calms and storms, than are the approaches to Colon, on the Atlantic, and Panama, on the Pacific, on the Panama route. The approach to Colon, as all agree, is liable to frequent and destructive storms, while the approach to Panama for a long distance is for many months of each year an almost perpetual calm.

Thirteenth. The Nicaragua route is preferable for the reason that, as the strength of a chain is only equal to that of its weakest link, so it is true, if on either or both of these routes there is any engineering obstacle to overcome, then the feasibility of the whole route must depend wholly upon the power of the engineer to overcome the particular obstruction; otherwise the whole scheme is a failure, however feasible all other portions of the route may be. On each of these routes a great dam must be constructed. This is an essential on each route, and the entire safety, practicability, and efficiency of the canal in each case depends on the dam. This is agreed to by all engineers who have examined the two routes. In the case of Panama there is but a single place where the necessary dam can be constructed, if it can be constructed at all—this is at Bohio, on the Chagres River—while on the Nicaragua route there are several places where a dam might be constructed. But the place selected by the Commission is at Conchuda, a point some 3 miles above the mouth of the San Carlos River. In this case—Conchuda, on the Nicaragua route—the dam must be 28 feet below sea level at site of dam, where the surface of the river is about 50 feet above, making 78 feet under water. The construction of this dam involves no unusual or extraordinary engineering feat. It would involve the necessity of what is known as the pneumatic process. But pneumatic processes have frequently been used to a depth of 100 feet, and in one instance at least—but I believe this is the only one in this country—to the depth of 110 feet. This was at the east abutment of the St. Louis bridge. There is therefore no great difficulty from an engineering standpoint, or, in fact, from any other, in constructing a dam at Conchuda, on the Nicaragua route.

But the case is wholly different in reference to the Bohio dam on the Panama route. There is presented an engineering problem the like of which has never yet been solved by human science or human effort. The Isthmian Commission reports that in order to get a rock foundation, which is an absolute necessity for a dam at this point, they must go 128 feet below sea level. This involves the sinking of caissons or pneumatic tubes 18 feet deeper than has ever been done before. Not only so, the French engineers have been proceeding upon the idea of erecting this dam on a clay foundation. The Panama engineers, after boring down 93 feet, reached a stratum of hard clay some 35 feet thick, and upon this clay stratum they propose to erect an earthen dam. The American commissioners, however, and the American engineers regard this as wholly unsafe, and insist this 35-foot stratum of clay must be penetrated and the caissons placed on solid rock.

The construction and maintenance of this dam at this immense depth and on a torrential stream which in 1879, according to the report of the Panama Railroad Company, raised 43 feet in twenty-four hours is an engineering experiment. There is nothing in the history of the world, as I have said, in all the range of engineering experiment to which we can point as a star to guide us to success in constructing a dam of that kind; and as there is only one place for this dam on the whole Panama route, should it fail the whole structure is a failure. While there is nothing experimental in the construction and maintenance of a dam at Conchuda, on the Nicaragua route, should this dam at Conchuda give way there are several other places where the dam could be constructed that would meet the necessities of the case.

Why, therefore, I inquire, should the United States deal in engineering experiments which may or may not prove successful in entering upon the work of the construction of an isthmian canal?

Rear-Admiral Walker, president of the Isthmian Canal Commission, shows conclusively by his testimony that the construction and maintenance of the Bohio dam is in the experimental region, and that there is no certainty that it can be constructed and maintained. I point to the testimony, and I contrast and compare the testimony with the final report in favor of buying out the old concern from the Paris people and attempting to build a canal where in all probability it can neither be built nor maintained if built. The following is from his testimony taken before the Inter-oceanic Canal Committee at their recent hearings:

Senator HARRIS. The fact is, with regard to the Bohio dam, that the future of that is just as much an unknown quantity as the future of the dam at Conchuda?

Admiral WALKER. I should say it was more of an uncertain feature. It is a greater work and a more difficult work to build. The Conchuda dam I look upon as practically settled.

Senator HARRIS. So that we know no more about the possibilities and contingencies at Bohio than we do at Conchuda; in fact, less.

Admiral WALKER. We know less about the contingencies at Bohio, but that is the only point in the whole line about which we are at all uncertain.

"About which we are at all uncertain."

If they are uncertain, then they are not certain. That is a logical conclusion if there is not very much sense in the statement. The distinguished Senator from Ohio says we appoint commissions to tell us what to do and to make recommendations. Here the president of this Commission, Rear-Admiral Walker, in his testimony, given since he made the recommendation in favor of the Panama route, testifies that he, as a commissioner, as a distinguished naval engineer, is uncertain whether or not a dam can be built at Bohio.

Mr. HARRIS. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Oregon yield to the Senator from Kansas?

Mr. MITCHELL. Certainly.

Mr. HARRIS. If the Senator will allow me, I will suggest that in the same evidence Admiral Walker stated that the Bohio dam was the vital point in the whole undertaking.

Mr. MITCHELL. Oh, certainly, as a matter of course. The fact is, the dam in each case is the vital point in the plan.

Mr. GALLINGER. I should like to ask the Senator if a similar question was propounded to Mr. Morison, for instance, who is acknowledged to be one of the greatest engineers in the world.

Mr. MITCHELL. I do not know whether that precise question was or was not propounded to him.

Mr. GALLINGER. In other words, have the other engineers on the Commission admitted that there is much uncertainty about the possibility of constructing this dam?

Mr. MITCHELL. I think there is a vein of uncertainty in regard to the absolute success of the dam at Bohio running through all the testimony of the engineers and the experts who have been examined, while three of the Commissioners, Rear-Admiral Walker, Commissioner Morrison, and Commissioner Haupt, express themselves to the effect that the success of the problem is in much doubt.

Mr. GALLINGER. Will the Senator permit me? It seems to me somewhat incredible that if there is a serious question in the mind of this great Commission it should have recommended this route in preference to the other.

Mr. MITCHELL. It seems so to me, too.

Mr. HARRIS. If the Senator will permit me, in answer to the Senator from New Hampshire I will say—

The PRESIDING OFFICER. Does the Senator from Oregon yield to the Senator from Kansas?

Mr. MITCHELL. Certainly.

Mr. HARRIS. I will say that Mr. Morison, one of the ablest engineer members of the board, recommends an entirely different plan and considers it far better, being without any element of uncertainty. Not only that, but Professor Haupt, one of the best engineer members of the Commission, differs with the rest of the Commission in toto in regard to this matter.

Mr. GALLINGER. While that is true of Mr. Morison, it is equally true that he signed the report in favor of the Panama route. I am not quite sure that Professor Haupt is not about right—that there is a better route than either of these two. I think that may develop later on.

Mr. MITCHELL. It is possible. I will proceed to read from the testimony:

Referring to the Bohio dam—

Senator HARRIS. But that is the vital point.

Admiral WALKER. That is the vital point. Yes, it is vital to the canal, because the safety of the canal depends on the integrity of the dam in both cases.

Senator HARRIS. And the control of the river?

Admiral WALKER. Yes.

So, although the president of the Commission in his final report

recommends that the canal be built at Panama, contradictory to three other reports that he signed, we have him telling us that he is in doubt about a dam which he says, and which all agree, must be successfully constructed and maintained at Bohio in order to make the canal a success.

Fourteenth. I favor the Nicaragua route because it can be completed at an earlier date than can the Panama route. The maximum excavation at any one point on the Nicaragua route is, according to the testimony of the engineers taken before your committee, but 18,000,000 yards as compared with 43,000,000 yards at the Culebra cut on the Panama route. The New Panama Canal Company has been excavating there at the average rate in the last five years of 1,000,000 yards a year. At that rate it will require forty-three years to complete the cut. And although the Commission figures on the ability, with sufficient force, to remove 5,000,000 yards a year, it is a question of considerable doubt, inasmuch as the material must all be taken out at the ends of the cut, whether a sufficient force can be employed with advantage to remove that amount, or anything like that amount, in a year. When Engineer Lewis M. Haupt, a member of the Isthmian Canal Commission, was before the Senate Committee on Inter-oceanic Canals in March last he testified upon this point as follows—I quote from the testimony:

Senator MITCHELL. Do you know the extent and force of machinery employed by the canal company?

Mr. HAUPT. Yes; they had when we were there about 3,000 men employed, but I can not give you offhand the number of cars and engines, nor the miles of track, etc., but you have seen the illustrations of the work in their reports, showing how they have taken out the material in benches, and they have distributed it on the spoil banks.

Senator MITCHELL. From your knowledge of the whole situation, how much increase, if any, in the operating force could be made there?

Mr. HAUPT. There would have to be a capacity of five times the present force and plant at least in order to do the work of taking out that cut in eight years.

Senator MITCHELL. I understand that; but how much force could be increased there and worked to advantage?

Mr. HAUPT. The Commission has expressed itself in this wise on that point: That the study of that question has not been as yet carefully worked out, but it would require to be thoroughly systematized before any work should be let on that.

Senator HARRIS. That material all had to be taken out of the ends of the cut; there is no other way of reaching the spoil banks.

Mr. HAUPT. They can work from both ends and on both sides. By working in benches you can put a large force in there, just as you would drive a tunnel, by first driving the heading, then the bench on one side, followed by that on the other, then the bottoming, and finally the trimming and lining. You could distribute your force so as not to interfere seriously with each other.

Senator HARRIS. There is a limit, of course, to the number of men that can be worked.

Mr. HAUPT. You can only attack it in a certain number of points. The fact that it is so concentrated is an objection and a difficulty which has weight in giving the preference to the Nicaragua route, where there is a larger volume, but more generally distributed. The maximum excavation at any point in the Nicaragua route is 18,000,000 yards, as compared with 43,000,000 yards in the Culebra cut.

Senator HANNA. In your judgment, can that cut be completed in eight years?

Mr. HAUPT. I think it would be a difficult thing to do it. It would require complete organization and exemption from epidemics and various things of that kind, which are contingencies, and on which no man can make definite predictions, as no one can foresee them.

Senator HARRIS. In working in benches one above the other—I am doing a work on a much smaller scale with the same process—a slip or a slide in one of the benches practically retards the work on that whole slope.

Mr. HAUPT. Certainly; it might, if serious, everything below that and perhaps above.

Senator HARRIS. That is one of the serious results of an accident at any point.

Mr. HAUPT. The average haul also is much longer in this case than it would be in the other, and that at a great disadvantage. Everything must be moved longitudinally from the Culebra cut out to the dumping grounds at the ends; whereas on the divide cut at Nicaragua it is simply a lateral movement, just as it was in the Chicago drainage canal. It is only necessary to put in a force and conveyors and run the material off on the berms and dump it, making the average haul very much less in that case than in this, and that would reduce the cost of movement and the efficiency of the working plant.

Senator HARRIS. The most serious cuts to be encountered, in fact the only ones of very considerable magnitude, on the Nicaragua line are east of the lake at the Tamborcito ridge.

Mr. HAUPT. Yes, sir.

Senator HARRIS. That is a rock cut of very considerable depth, but only 3,000 feet from end to end.

Mr. HAUPT. The Tamborcito cut is a very narrow one, running up to over 200 feet in height, and, as you say, it is 3,000 feet at the base and largely rock, which would be used for riprap or paving, for protecting the canal, and that is the deepest cut of any on the line.

Mr. HANNA. Will the Senator from Oregon allow me?

Mr. MITCHELL. Certainly.

Mr. HANNA. If I remember the Senator's statement it was that Mr. Haupt spoke about information that he had got when he was there. Was he there?

Mr. MITCHELL. At this particular place?

Mr. HANNA. Yes; on the Panama route.

Mr. MITCHELL. I am not now able to say, but I believe he was.

Mr. HANNA. Am I correct in quoting the Senator from Oregon as saying that Professor Haupt reported that when he was there he saw certain things?

Mr. MITCHELL. I simply stated what he testified to before the committee.

Mr. HANNA. But the Senator used the words "when we were there."

Mr. MITCHELL. Was I then reading from his testimony?

Mr. HANNA. It was where you commenced.

Mr. MITCHELL. I will repeat what I said before I commenced reading his testimony and then I will re-read his testimony. What I said was this:

When Engineer Lewis M. Haupt, a member of the Isthmian Canal Commission, was before the Senate Committee on Inter-oceanic Canals in March last, he testified upon this point as follows—I quote from the testimony:

Mr. HANNA. Go on.

Mr. MITCHELL. With the testimony?

Mr. HANNA. Yes.

Mr. MITCHELL. Now I quote the testimony:

Senator MITCHELL. Do you know the extent and force of machinery employed by the canal company?

Mr. HAUPT. Yes; they had when we were there about 3,000 men employed.

Mr. HANNA. Mr. Haupt was not there at all.

Mr. HARRIS. He has been at Panama.

Mr. HANNA. He has been across the railroad at Panama. He did not go out with the Commission on the investigation or examination of either the Panama or the Nicaraguan route during the exercise of his commission. He so testified before the committee. He said he never had been on the line of the Panama route.

Mr. MITCHELL. Unless my stenographer has made a mistake in copying the testimony, he stated in his testimony that he was there.

Mr. HANNA. I will answer that to-morrow.

Mr. MITCHELL. I will look it up. It is possible, I will state to the Senator from Ohio, that my stenographer has made a mistake in copying the testimony. I will look it up carefully. Of course, I do not wish to misrepresent the fact.

Mr. HANNA. Oh, no; I merely wanted to correct the Senator, because Mr. Haupt was not there.

Mr. MITCHELL. That is the way it is quoted here—that he was there—but we will see later. I have sent for the official testimony.

Fifteenth. Another very strong reason why the Senate should select the Nicaragua route is because it is perfectly apparent that to fail to do so and to adopt an amendment to the House bill, either adopting the Panama route or leaving it to the President to select either route, will create an unnecessary issue between the two Houses of Congress, which will at least cause unnecessary delay, and in all probability will result in defeating all legislation on the subject in this Congress.

The House of Representatives, direct from the people, has in the present and preceding Congress, by a practically unanimous vote, selected the Nicaragua route. This has been done after a most careful and thorough investigation by one of the leading committees, and after thorough discussion. Congress has all the evidence before it bearing upon the question necessary to a determination of the question as to which is the better route, and is better able, I submit, to make an intelligent selection, than either the President of the United States, or the President and his whole Cabinet combined, or any other person or tribunal or jurisdiction whatever. The Senate is competent, as is the Congress, to make the selection. It is its duty to make such selection, and to shirk such duty, whatever may be the motive or the pretense, however patriotic, honest and sincere the purpose—and honesty and sincerity of purpose must be accorded to every Senator—the effect of such action, I respectfully submit, will not tend to an early construction of an isthmian canal, but, on the contrary, will be sure to result in delay, and in all probability will defeat the construction of the same.

Sixteenth. But an insurmountable objection to the selection of the Panama route rests in the fact, in my judgment, and in the judgment of a majority of the Senate Committee on Inter-oceanic Canals, that it is, as described by the testimony taken before your committee, absolutely impossible for the New Panama Canal Company, either with or without the consent of the Republic of Colombia, or either with or without the consent of the Old Panama Canal Company, or either with or without the consent of the French Government, or either with or without the consent of the New Panama Canal Company, to vest a title in the United States to the Panama property that will not be eternally and forever clouded by an infinitude of claims and charges, arising, if not on strictly legal grounds, upon moral and equitable grounds, upon the part of the share and bond holders, both of the Old and the New Panama Canal Company, to say nothing of the outstanding shares in the hands of numerous persons of about 1,100 shares in the Panama Railroad Company.

And it appears from the testimony of Charles Colne, late general agent and secretary of the American committee, taken before the Committee on Inter-oceanic Canals on February 17 last, that there are in France about 800,000 subscribers to the stock and

bonds of the Old and New Panama Canal companies, and all of whom would have obligations of a greater or lesser amount in the event of the construction of the canal by the New Panama Canal Company, and all of whom, it is believed by your committee, would have moral and equitable claims against the United States in the event we should become the beneficiary of the property of the New Panama Canal Company by purchase of the same from that company. In support of this statement I quote from the testimony of Mr. Charles Colne, above referred to, which will be found on page 216 of the Hearings before the Senate Committee on Inter-oceanic Canals, part 1:

Senator HAWLEY. About how many claimants are there in France? How many people have stock or obligations of any kind that have been made as claims against this company in case it goes on and builds a canal?

Mr. COLNE. About 800,000 subscribers.

Senator HAWLEY. About 800,000 people?

Mr. COLNE. Yes.

Seventeenth. Another formidable objection to the selection of the Panama route arises from the fact that a part of the property owned by the New Panama Canal Company is 68,900 shares of the 70,000 shares of the Panama Railroad Company. These shares in the Panama Railroad Company are a part of the property of the New Panama Canal Company, for which we are called upon to pay the New Panama Canal Company \$40,000,000. This Panama Railroad Company is a private corporation, organized under a special charter granted by the legislature of the State of New York many years ago. The New Panama Canal Company is not the owner of the Panama Railroad or any part of its steamships or other property. It has no power to transfer or sell this property to the United States. This property is under the management and control of the Panama Railroad Company, having its place of business, its offices, and its officers in the city of New York.

The United States, moreover, has no authority or power, as I insist, to hold stock in this corporation. Certainly the New Panama Canal Company has no power to sell, or in any way dispose of or control any of the property of this railroad company, outside of such control as it might exercise by reason of being a stockholder in the company controlling a majority of the stock. Certainly as to the 1,100 shares of stock—which it is admitted by all hands it does not own—it has no control whatever. The construction of the proposed canal on the Panama route, moreover, involves the necessity of a change in location, a virtual destruction, of a portion of the present Panama Railroad—this for quite a distance, as the route of the canal lies on the very track of the present railroad.

Will any lawyer claim for a moment that this can be done by the United States on the holding simply of a majority of the shares of the stock in the railroad company against the protests of the outstanding shareholders? Does any lawyer doubt the power of the holders of the 1,100 shares of stock in the Panama Railroad Company to prevent the United States—not directly, I admit, but indirectly—from tearing up the track of the railroad by obtaining an injunction against the men engaged in such spoliation of their property? Will the Congress of the United States assume such responsibilities as must thus necessarily come by reason of any attempt to ignore the rights of the minority shareholders in this railroad company?

Mr. President, I have just been handed an official copy of the testimony of Prof. Lewis M. Haupt, in reference to which we had a friendly contention a few moments ago. I will read from the official report. I observe that this is not the part of the testimony I desired to quote, but as it is part of the testimony of Professor Haupt I will read it:

The CHAIRMAN. Before you go ahead, Professor, I want to call your attention to a former statement that you made before this committee, on page 107 of a former report, for your own information.

Mr. HAUPT. In looking at the statement on page 107, I find it refers especially to the difficulties of construction of a dam at Bohio. That is one of the engineering details of the project, and with the consent of the committee I think it would be better to have me take up the project from a broader standpoint and then to take up the engineering details subsequently.

The CHAIRMAN. Pursue your own course as to that.

Senator HARRIS. Before you begin that, I would like to have you indicate that you were on the first Nicaragua Canal Commission and then afterwards a member of what is called the Isthmian Canal; that you served on both of those commissions.

Mr. HAUPT. Yes; answering the question of Senator HARRIS as to my qualifications, I would say that I have served on both of those commissions and have been over both of the routes critically, have assisted in the preparation of estimates and reports, and feel that I am reasonably competent to give an opinion.

The CHAIRMAN. By both routes do you mean both the Nicaragua and the Panama routes?

Mr. HAUPT. Yes. As the question before this committee is largely one of the selection of two routes, I beg leave to say that while conceding to the wishes of the majority and signing a report in order to make it unanimous, and so, if possible, to secure legislation at this session, I still feel and did then that there were certain economic, physical, engineering, sanitary, and commercial advantages inherent to the Nicaragua route which gave it a decided preference over the Panama route.

That is the testimony of one of the Commissioners, who signed the report under protest for the sake of having unanimity and in the hope of getting a canal built at some place somewhere. Here he states in the most unqualified terms, under oath, that when he

signed that report he felt and still feels that there are certain economic, physical, engineering, sanitary, and commercial advantages inherent to the Nicaragua route. He says further:

In this, of course, I do not consider the cost of the concessions nor especially the cost of constructing the canal, but I think the others are of so preponderating weight as to overbalance any differences in the latter two items.

Mr. FAIRBANKS. Will the Senator give the page from which he is reading?

Mr. MITCHELL. Page 518. Professor Haupt continues:

The economic advantage is, a priori, the most important factor in the operation and utility of an interoceanic waterway, and that is briefly summed up in the report of the Commission by the statement that the Nicaragua Canal possesses an advantage between home ports of one day for all north-bound commerce—that is, whether it be of European or American origin, or whether it has its destination in the Orient or North Pacific ports—and for all Gulf ports it would save about two days.

I have made an estimate of that saving based upon the average cost of moving vessels of about 3,000 tons capacity, which I have figured at about \$250 a day. Some of these vessels have cost as high as \$1,000 a day to operate and maintain, and some of them as low as \$100 a day, but taking it at that average and estimating on a basis of 10,000,000 tons, of which, say, 75 per cent is north bound, the economy on that basis would amount to about \$950,000 a year on steam alone. But as a large percentage would be carried by sail if this route be opened, the economy would probably be 50 per cent more, or about \$1,000,000.

Senator KITTREDGE. Where did you obtain the tonnage?

Mr. HAUPT. The 10,000,000 tons?

Senator KITTREDGE. Yes.

Mr. HAUPT. That is approximately the amount of tonnage which would be available at the time of the opening of the canal.

Senator KITTREDGE. From what source did you secure that?

Mr. HAUPT. That is taken from a digest which I have made of all the estimates of tonnage from the time this project was actively discussed by the commercial world.

The CHAIRMAN. Will you allow me to ask right there whether the subcommittee to which you were assigned had in charge the subject of the economic value or advantages of the canal?

Mr. HAUPT. Yes; it had.

The CHAIRMAN. You made a study of it?

Mr. HAUPT. I was a member of that committee and have been studying and working on that subject for some three years past. This statement which I have prepared is rather a long one to enter upon the minutes, but I have here a compilation of all estimates accessible to me as to the amount of probable tonnage available, ranging from Mr. Nimmo's estimates of only 300,000 registered tons up to a possible maximum tonnage in the year 1899 of 15,750,000 tons.

Mr. HANNA. Mr. President—

The PRESIDING OFFICER. Does the Senator from Oregon yield to the Senator from Ohio?

Mr. MITCHELL. In one moment. I have just now received the official copy of the testimony which I alluded to a while ago, and I will read from the official record:

Senator MITCHELL. Do you know the extent and force of machinery employed by the canal company?

Mr. HAUPT. Yes; they had when we were there about 3,000 men employed.

That is the testimony correctly copied by the stenographer. Now, I yield to the Senator from Ohio.

Mr. HANNA. I simply want to reiterate the statement I made. Professor Haupt never went over the route of the Panama Canal in connection with the Isthmian Canal Commission. On a former survey of the Nicaragua route he went over the Panama route in a cursory way. I have produced that testimony. He says that he never went over the Panama route while a member of the Isthmian Canal Commission, and what he detailed there was simply information that he had gathered from whatever statistics he obtained from the other engineers. I know nothing about his mental reservation when he signed the report.

Mr. MITCHELL. It is quite immaterial, I should imagine, whether he was there at one particular time or another. He was there, as he states in his testimony, twice, and he was over both routes. Just when he was there of course I do not know, and it is not material. He states that he made all the examination necessary in order to enable him to come to a conclusion.

THE EARTHQUAKE ARGUMENT.

But the opponents to an isthmian canal, especially those opposed to the Nicaragua route and in favor of investing \$40,000,000 in the Panama fraud, ever on the lookout for new arguments to sustain their position, imagine Providence has furnished them with a new and unanswerable argument in the terrible catastrophe that has so recently come to the people of Martinique by reason of the eruption of Mount Pelee, and this is seized upon with vigor and evident satisfaction as an argument against the construction of the canal on the Nicaragua route.

But what is the conclusive answer to all this? It is found in the well-established facts, first, that all the history of the past fails to furnish any evidence to justify the conclusion that the possibility of destruction from earthquakes is a factor of any importance whatever in opposition to the construction of the canal on either of the two routes; and, second, that past history shows a much larger percentage—a percentage of about 100 per cent greater—of danger from earthquakes on the Panama route than on the Nicaragua route. In support of this assertion there is ample evidence of different kinds. But that which ought to be conclusive is found in the report of the Isthmian Canal Commission, submitted to the President November 16, 1901, in which it

is asserted there have in the past been double the number of earthquakes in the Panama than in the Nicaragua region. I bring to the attention of the Senate the following extract from that report:

The doctrine that volcanoes are safely valves which diminish the violence of earthquakes in their vicinity is accepted by such writers as Baron von Humboldt, Sir Charles Lyell, Prof. Charles Daubeny, and J. Le Conte. In general terms, then, the region of volcanoes is the region of earthquakes, but the immediate vicinity of the volcanoes is not necessarily the most dangerous part of the region. * * * No portion of it is exempt from earthquakes. The record of those which have occurred is meager, being, as a rule, confined to those severe enough to inflict damage upon buildings or otherwise attract general attention. * * * The record for points upon the line of the Nicaragua Canal shows fourteen earthquakes.

Two of these were felt at Greytown, which has been supposed by some writers to be exempt. The only one which is reported to have caused serious damage was that of 1844. Rivas was almost destroyed, and great damage was done at Greytown. Rivas is 4 miles from the canal. * * * For Panama the records show 28 earthquakes. * * * The only one that could be called destructive was that of 1621, which destroyed nearly all of the houses of Panama. The next most severe was that of September 7, 1882. During this earthquake a part of the front of the cathedral in Panama was thrown down, * * * the railroad had its track and roadbed in places thrown out of line, and the masonry of three or four bridges and culverts was damaged.

It is evident this list is not complete enough to justify a comparison between the Nicaragua and Panama routes as to either the number of earthquakes or their severity. They are on precisely the same footing historically and geographically. * * * With the exception of the injury to Panama in 1621 and Rivas in 1844, the worst that has ever happened at the Isthmus on either line was to throw down or crack a few walls, and even in those cases it is to be remembered that comparatively few of the houses were substantially built. * * * It is possible and even probable that the more accurately fitting portions of the canal, such as lock gates, may at times be distorted by earthquakes, and some inconvenience may result therefrom.

That contingency may be classed with the accidental collision of ships with the gates, and is provided for in the same way, by duplicate gates. It is possible, also, that a fissure might open which would drain the canal, and if it remained open might destroy it. This possibility should not be erected by the fancy into a threatening danger. If a timorous imagination is to be the guide, no great work can be undertaken anywhere. This risk may be classed with that of a great conflagration in a city, like that of Chicago in 1871 and of Boston in 1872.

It is the opinion of the Commission that such danger as exists from earthquakes is essentially the same for both the Nicaragua and Panama routes, and that in neither case is it sufficient to prevent the construction of the canal.

In this connection I desire to attract the attention of the Senate to the testimony of Engineer Lewis M. Haupt, a member of the Isthmian Canal Commission, who in March last, before your Committee on Interoceanic Canals, when this subject was under consideration in that committee, said:

As to the question of seismic disturbances, I would only add that it has been shown by students of seismology that the presence of active volcanoes act as a safety valve for internal disturbances; and the number of craters along through Nicaragua and Costa Rica being quite large, it affords a vent for any internal stress of the earth, and therefore there are fewer injurious earthquakes in that section of the world than at Panama or elsewhere; and I was very much surprised, in studying that subject, to find that the percentage of earthquakes was lower in Nicaragua than in almost any other portion of the world. Now, we have had some earthquakes in this country recently—one in St. Louis and one in Oregon and many in California—so that, so far as that goes, it shows that there need be little anticipation of trouble from that source.

Senator HARRIS. You say that your investigation shows that Nicaragua is the freest from earthquakes of any country in the world?

Mr. HAUPT. Yes; from serious earthquake trouble, but they have had some earthquakes there. Panama was badly shaken in 1858, and again in 1882, when Colon was rent with a seam across the town. The iron railroad bridge at Barbacoas was shifted out of position. So that the Commission has put those on a parity and dismissed the subject, with the belief that the canal works being buried in the earth would not be seriously interfered with by earthquakes in either case. I think, Mr. Chairman, that that probably covers most of the points.

But it will seem superfluous and also absolutely unnecessary, after the exhaustive speech on this subject on yesterday by the distinguished Senator from Alabama [Mr. MORGAN], chairman of the committee, for me to pursue the subjects of earthquakes and their probable bearing upon the construction of an isthmian canal any further.

Mr. President, I find it impossible for me to conclude what I have to say unless I should ask the Senate to remain in session for an unreasonable hour, and if the Senate will permit me to go on to-morrow I should like to stop here.

Mr. PLATT of Connecticut. As the Senator from Oregon does not care to go on this afternoon, I will move an executive session.

Mr. McCOMAS. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Connecticut yield to the Senator from Maryland?

Mr. PLATT of Connecticut. I will yield to the Senator.

PATAPSCO RIVER LIGHT AND FOG-SIGNAL STATION.

Mr. McCOMAS. I ask unanimous consent for the present consideration of the bill (H. R. 12085) providing for the completion of a light and fog-signal station in the Patapsco River, Maryland. The bill was reported favorably from the Committee on Commerce this morning. It makes an additional appropriation of \$60,000 for the purpose. I have here the report.

The Secretary read the bill; and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

DUDLEY CARY.

Mr. KITTREDGE. Mr. President—
The PRESIDENT pro tempore. Does the Senator from Connecticut yield to the Senator from South Dakota?

Mr. PLATT of Connecticut. I will yield to the Senator.
Mr. KITTREDGE. I ask unanimous consent for the present consideration of the bill (S. 5140) granting an increase of pension to Dudley Cary.

The Secretary read the bill; and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration. It proposes to place on the pension roll the name of Dudley Cary, late of Company D, Forty-sixth Regiment Wisconsin Volunteer Infantry, and to pay him a pension of \$30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

AGREEMENT WITH CREEKS.

Mr. PLATT of Connecticut. I move that the Senate proceed to the consideration of executive business.

Mr. STEWART. I appeal to the Senator from Connecticut to withhold that motion for a few minutes, that I may have the Creek treaty passed. It is a short bill, and it will pass in a few minutes.

The PRESIDENT pro tempore. Does the Senator from Connecticut yield?

Mr. PLATT of Connecticut. I am obliged to leave the Chamber, and I desired to have an executive session at which I should be present, but I will yield to the Senator from Nevada.

Mr. STEWART. The bill can be passed in ten minutes. I ask unanimous consent for the present consideration of the bill (S. 4923) to ratify and confirm a supplemental agreement with the Creek tribe of Indians, and for other purposes.

Several SENATORS. It is a long bill.

Mr. STEWART. It is not very long.

EXECUTIVE SESSION.

Mr. KEAN. I think I will renew the motion of the Senator from Connecticut.

The PRESIDENT pro tempore. The Senator from New Jersey moves that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After seven minutes spent in executive session the doors were reopened, and (at 5 o'clock and 10 minutes p. m.) the Senate adjourned until to-morrow, Friday, June 6, 1902, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate June 5, 1902.

CONSUL.

John F. Jewell, of Illinois, to be consul of the United States at Martinique, West Indies, vice Thomas T. Prentis, deceased.

MARSHAL.

William L. Morsey, of Missouri, to be United States marshal for the eastern district of Missouri, vice Louis C. Bohle, whose term expired April 17, 1902.

NOTE.—This nomination is to take the place of the nomination of May 26, 1902, of William M. Morsey, the correct name being William L. Morsey.

CONFIRMATIONS.

Executive nominations confirmed by the Senate June 5, 1902.

PROMOTION IN THE REVENUE-CUTTER SERVICE.

Second Assistant Engineer John B. Turner, to be a first assistant engineer in the Revenue-Cutter Service.

POSTMASTERS.

James E. Stevens, to be postmaster at Goodland, in the county of Sherman and State of Kansas.

Daniel Surface, to be postmaster at Richmond, in the county of Wayne and State of Indiana.

Newton R. Spencer, to be postmaster at Greenfield, in the county of Hancock and State of Indiana.

Eugene Lane, to be postmaster at Suncook, in the county of Merrimack and State of New Hampshire.

Elisha H. Carr, to be postmaster at Newport, in the county of Sullivan and State of New Hampshire.

Simeon M. Estes, to be postmaster at Meredith, in the county of Belknap and State of New Hampshire.

Edward H. Clough, to be postmaster at Manchester, in the county of Hillsboro and State of New Hampshire.

Frank E. Shoemaker, to be postmaster at Neodesha, in the county of Wilson and State of Kansas.

Alonzo H. Williams, to be postmaster at Holton, in the county of Jackson and State of Kansas.

HOUSE OF REPRESENTATIVES.

THURSDAY, June 5, 1902.

The House met at 12 o'clock m. Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of yesterday's proceedings was read, corrected, and approved.

GEORGE C. TILLMAN.

Mr. BROMWELL. Mr. Speaker, on behalf of the Pension Committee, I submit the following conference report on the bill (S. 4071) granting an increase of pension to George C. Tillman, and ask unanimous consent that the reading of the report be dispensed with and that the statement be read in its place.

The SPEAKER. The gentleman from Ohio submits the conference report on the bill (S. 4071) granting an increase of pension to George C. Tillman and asks unanimous consent that the reading of the report be dispensed with and that the statement be read in its place. Without objection, this course will be pursued. [After a pause.] The Chair hears none. The Clerk will read.

The Clerk read as follows:

Statement to accompany report of committee of conference on disagreeing vote of the two Houses on Senate bill 4071, granting an increase of pension to George C. Tillman.

This bill originally passed the Senate at \$25 per month, but was amended in the House to \$16 per month. The result of the conference is that the House recedes from its amendment, and the conferees agreed to a rating of \$20 per month. Your conferees therefore recommend that the bill pass at \$20 per month.

H. C. LOUDENSLAGER,
J. H. BROMWELL,
WILLIAM RICHARDSON,
Managers on the part of the House.

The report is as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill S. 4071, "An act granting an increase of pension to George C. Tillman," having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the sum proposed by the House insert "twenty;" and the House agree to the same.

H. C. LOUDENSLAGER,
J. H. BROMWELL,
WILLIAM RICHARDSON,
Managers on the part of the House.
J. H. GALLINGER,
WM. J. DEBOE,
E. W. CARMACK,
Managers on the part of the Senate.

The SPEAKER. The question is on agreeing to the report.

The report was agreed to.

On motion of Mr. BROMWELL, a motion to reconsider the last vote was laid on the table.

HATTIE M. WHITNEY.

Mr. BROMWELL. Mr. Speaker, on behalf of the Pension Committee, I submit the following conference report on the bill (S. 4927) granting an increase of pension to Hattie M. Whitney, and I ask unanimous consent that the reading of the report be dispensed with and that the statement be read in its place.

The SPEAKER. The gentleman from Ohio submits a conference report and asks unanimous consent that the reading of the report be dispensed with and that the statement be read in its place. Without objection, this course will be pursued. [After a pause.] The Chair hears none. The Clerk will read.

The Clerk read as follows:

Statement to accompany report of committee of conference on disagreeing vote of the two Houses on bill (S. 4927) granting an increase of pension to Hattie M. Whitney.

This bill originally passed the Senate at \$50 per month, but was amended in the House to \$35 per month. The result of the conference is that the Senate agrees to the House amendment, and your conferees recommend that the bill pass at \$35 per month, as it originally passed the House.

H. C. LOUDENSLAGER,
J. H. BROMWELL,
WILLIAM RICHARDSON,
Managers on the part of the House.

The conference report is as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 4927) "An act granting an increase of pension to Hattie M. Whitney," having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same.

H. C. LOUDENSLAGER,
J. H. BROMWELL,
WILLIAM RICHARDSON,
Managers on the part of the House.
J. H. GALLINGER,
N. B. SCOTT,
JAS. P. TALIAFERRO,
Managers on the part of the Senate.

The SPEAKER. The question is on agreeing to the report.
The report was agreed to.

On motion of Mr. BROMWELL, a motion to reconsider the last vote was laid on the table.

PROTECTION OF THE PRESIDENT.

Mr. RAY of New York. Mr. Speaker, I move that the House now resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (S. 3653) for the protection of the President of the United States, and for other purposes.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union, with Mr. GROSVENOR in the chair.

Mr. RAY of New York. Mr. Chairman, I yield twenty minutes to the gentleman from Pennsylvania [Mr. SIBLEY], and, if he should require it, thirty minutes.

Mr. SIBLEY. Mr. Chairman, when loving hands had consigned to mother earth the mortal remains of William McKinley, that sense of justice which is so predominant in American character demanded in tones seemingly unmistakable that there should be made the clear and distinct declaration that those who plotted treason to the Government and advocated murder of rulers should find that a land enriched by the blood of patriots and martyrs, that a nation broad and boundless in its area as our own, was all too small to hold those few who should openly conspire for its overthrow. The patriotism of our nation believed that almost the first act of the American Congress would be so to legislate that in the future neither a Johann Most nor an Emma Goldman, the more responsible authors of such crime, should escape punishment. If the criminal who commits the overt act is to be punished, how much more should punishment follow those who incite the criminal to the perpetration of his deeds of violence.

Notwithstanding the fact that the first recommendation made by the President in his annual message to Congress dealt with the subject, six months have rolled around, and for the first time this is a topic of discussion in this body. One of America's great orators and statesmen has delivered in this Chamber a eulogy upon the life and character of our late President, but it remains, so far as I am aware, for a member of either House to stand in his place and indicate that the policy to which his life was devoted is still and shall be the polar star by which the destinies of the nation are to be guided. How seldom, if ever, have members of this body invoked his teachings for guidance in matters of difficulty and doubt.

One of the lives that illumine the ages;
One of earth's prophets, one of her sages;
Resteth from labor, ceaseth endeavor;
Speaketh, though dead, and teacheth forever.

Can we fail to recognize the grandeur of that lofty character who has bequeathed to us for guidance words of counsel and of wisdom applicable to the solution of almost every perplexing problem of government?

In the few remarks I shall make upon the question now before the House, may I crave indulgence in offering some words of tribute reflecting my opinions of the late President? In attempting to do so I can but realize that in pulpit and upon platform tongues voicing the spirit of love and more eloquent than mine own have already done so and will so long as the tale of our country shall be told by orator or historian.

His life is now behind us, but the memory of that life shall ever shine brightly as a beacon light before us. His labors have ended and he has gone to meet his reward. He has solved the great mystery and has passed out into the deep and dark unknown—not dark, unknown, and forbidding to him. When, upon the morning of the day before his death, he asked that the curtains be drawn aside that he might see the beautiful trees, who doubts that even before his death the loving Father, whose counsels he had ever followed and in whose mercies he had ever trusted, drew back the curtain which hides the future and let the weary sufferer look out upon those statelier mansions and behold that fairer tree which grows on either side of the river of life?

William McKinley needs no eulogy. He is beyond the censure or praise of men. Yet to me it will ever be a fond recollection to recall the fact that long before his death he knew the respect and affection I entertained for him. Many of you knew him much better than myself. What, then, must be your memories of this matchless man! Who among us so strong, so patient, so tender? What man in public life so truly represented the Christ spirit or so faithfully followed in His footsteps?

The Republic is young. In the coming generations the history of the present day will be condensed. The names of many men of genius and of patriotism will be forgotten, or but barely mentioned by the historian; but through the ages, so long as liberty is loved, so long as virtue is revered, the names of Washington, Lincoln, Grant, and McKinley will shine with ever-increasing brightness. [Applause.]

A matchless man, a peerless patriot, rests from his labors, but his works do follow him, and the memory of his works and words remains and shall remain the richest legacy that the fathers of the nation can transmit to their sons. Judged as a statesman, who surpasses him? Judged as a man and a statesman, who is his equal?

I am not here to eulogize William McKinley the statesman, but to speak of William McKinley the man. To repeat the record of his public services, the triumphs of his Administration, is a work of supererogation. Even the children know the condition of the nation, fiscal and industrial, when the chief magistracy of our country was committed to him in trust. He found a deficit in our national budget and left us with an overwhelming surplus. The previous Administration was engaged in selling bonds to meet the expenses of the Government. His Administration has been engaged in the payment of these bonds and lifting the burden of obligation from its citizenship.

In a time of peace, with his predecessor it had been a problem of sufficient revenues. Under William McKinley, even with the great expense of carrying on to successful termination two wars waged for humanity, the problem which confronted the present Congress was what disposition to make of our surplus revenues. He found the artisans of the nation idle; his policy opened the mills and set them to work. He saw paralysis and stagnation in our industrial and commercial life; his fingers pressed the key and started the wheels of industry in motion. He found capital idle and honest labor begging food at the doors of the soup house. He saw misery in countless American homes, and opened the windows and let the sunshine of prosperity stream into the homes and hearts of his fellows. He saw the door closed against the exportation of our products; he threw open to America the markets of the world. He found the value of our exports confined chiefly to our agricultural products, and lived to see our export of manufactured products rival them in value. He found us a nation of importers, and left us on the verge of the successful conquest of the markets of the globe.

His Administration found us a nation overwhelmed with disaster and almost in despair. He found an army of tramps and Coxey marchers. He left us an industrial hive, where wage-earners of every class or calling receive the highest pecuniary reward their services ever commanded. He found labor in lamentations, and sent it forth with songs of rejoicing. He found us insular, and has left us a world power, respected not more for the valor of our arms, not more for the genius of our civilization, than for the moderation and mercy manifested to the conquered. He waged a war with Spain, and in less than three years from the outbreak of hostilities gives Spain again to America as her cordial friend. He waged a war in China, and withdrew our successful forces from that country, leaving with the people of China the knowledge that of all the family of nations the United States is her most unselfish friend. He found us nearly forty years after the civil war still divided, and left us truly United States of America.

I shall not attempt on this occasion to render justice to his qualities as a statesman, and have referred in only the most cursory manner to those matters which are known and read of all men. My thought is to speak of him as a man.

Who that has visited the grand cathedrals of the Old World but has been impressed with their vastness, their glory, their magnificence? The arts of the world have been with all the lavishness of love poured out upon their adornment. Their massive domes, glittering pinnacles, and lofty towers pointing heavenward show the honor that loving hearts do pay to Him who when on earth had nowhere to lay His head. Oh, Galilean, majestic as are the monuments which love doth rear to Thy memory, how much more are Ye honored that in this era there live those who so truly catch the inspiration of Thy master spirit! Commemorate with vast cathedrals, with altars designed in highest art and adorned with richest treasure, the memory of One who walked this earth and preached the gospel of love, worthy, well worthy, all material tributes loving hearts can bestow; but can lofty piles of marble or cunning skill of architect or artisan so honor the Master as one life lived upon the plane where William McKinley lived? Who shall survey his works? Who that has listened to his generous words, who that has known and caught his kindly impulse, but feels himself a truer man therefor? What man entered his presence and left it without seeming to bear away a benediction? The Christian of every sect throughout the world can point to him and say to every scoffer, "Find in this man's life and death your answer."

Not long since one of the personal friends of William McKinley, but of opposite political faith, said, speaking of him, "He was a great politician," meaning thereby that he was a wise and successful leader of his party. He was the greatest and best politician, the wisest and most successful party leader we have ever known. All men could sit at his feet and learn the art of

politics as taught by him—love of country, love of man, and love of God. Sincerely and reverently serving all three, what man of his mental grasp could fail to lead to victory? From every American home and heart the call should be for more politicians cast in such heroic mold. The people followed his leadership because he ever sought to lead them toward the highlands of life—social, industrial, and moral. Recognizing as he did his responsibility to his party, he realized still more his obligations to his fellow-men and to his Creator. Ah, truly, here was a "life pure in its purpose, strong in its strife;" a life dedicated to his country in service, a death consecrated to his country in sacrifice.

I do not present him as a flawless man; earth has produced but one such. But search him with all the X rays of human criticism, and point, if you can, to a character more perfect in its equipoise; candid, brave, patriotic, unselfish, chaste in speech and in thought; temperate, truthful, tender, trusting. His political enemies charged him with seeking imperial dominion and aspiring to a crown. They cartooned him as wearing imperial robes, a kingly crown upon his head, and the scepter of power within his hand. Too often, alas, his crown was a thorny one, while the only crown to which he ever aspired he has already attained in the fulfillment of that blessed promise, "Be thou faithful unto death and I will give thee a crown of life." More than once his fellows voted him a triumph as an earthly victor, and, having overcome the world, he is now crowned as victor over the last great enemy—death. He needed no scepter wand to make him master, for he was conqueror and ruler over self. Ah, sir, to such a character death comes not as the end, but the beginning, "not as the curse, but as the coronation."

Who does not honor Ohio for the men she has given to the nation? We can rejoice with you, citizens of Ohio, that it was yours to give him to his country. Rear at his home your monument to his greatness and his goodness, and thus shall Ohio pay still higher honors to her own citizenship. But he belonged to us all, of every State and Territory and dependency. He belonged to the whole brotherhood of man the wide world round; and here at the nation's capital, here at the center of government, here at the scene of his conflicts and his triumphs, here where all interests unite, here upon ground common to all Americans let the patriotism and the Christianity of the land join in the erection of an arch which shall stand as much longer than those of ancient Rome as the virtues of William McKinley surpassed those of the men the citizens of Rome sought to honor. Erect here that monument which shall commemorate his virtues, and when the youth of the land who visit the nation's capital shall ask their fathers "Why this stately pile?" they shall repeat the story of his life; they shall recount his humble beginnings, his fidelity, his patriotism, the triumphs of his statesmanship, his Christian ministrations, and under the providence of God it shall prove a factor in stimulating untold thousands to higher ideals, until from the very summits of life humanity stands triumphant over the forces of evil.

How the world admires, even against its will at times, the strong man, the strong wrestler, the strong swimmer, the strong athlete, the strong warrior, the strong ruler. Truly, strength is glorious amid the daily tasks of life, in the arena of the humdrum as well as in the clangor of battle. Permit me to present William McKinley as the strong man, not because he as helmsman could guide the great ship of state through shoals and breakers into the harbors of prosperity and peace, not that he ever sought to demonstrate that he could bend a Congress to his will and usurp the functions of the coordinate branches of Government. Nevertheless, he was a strong man. He had strength of character and strength of conscience, strength of will to lift himself from humble beginnings and from narrow environments, under God's blessing, to the highest seat of honor and power. He had the strength to stand for truth, for justice, for honor, the strength to keep a steadfast purpose, strength to stand still even when urged to go forward, and that higher strength and courage permitting him to reverse his own judgments when convinced that his position was wrong.

"It takes great strength to train to modern service your ancestral brain;
To lift the weight of the unnumbered years, of dead men's methods, habits,
and ideas;
To hold that back with one hand and support with the other the weak steps
of a new thought.

"It takes great strength to bring your life up square with your accepted
thought and hold it there;
Resisting the inertia that drags back from new attempts to the old habit's
track.
It is so easy to drift back, to sink; so hard to live abreast of what you think.

"It takes great strength to live where you belong when others think that
you are wrong;
People you love and who love you, and whose approval is a pleasure you
would choose.
To bear this pressure and succeed at length in living your belief, well, it
takes strength, and courage, too."

William McKinley never failed in such strength or courage.
Goaded by those baser passions which cry out for wider license,
ignorance and depravity have struck a blow at liberty; not a blow

at one man, but the dagger and the pistol at the heart of 80,000,000 of freemen. He whom we shall ever mourn during these mortal lives was stricken, not for any fault, not by reason of any personal grievance, not for some fancied sin of omission or commission, but because he stood as the sign and symbol of representative government. That shot was aimed, not at our national leader, but at our national life. The one is dead. Shall the other also perish? God forbid! Though stunned with the horror of this tragedy, the Christian patriotism of America believed that the God who guided our fathers at Concord and at Lexington, at Bunker Hill and at Princeton; that He who fed the faltering faith at Valley Forge and crowned liberty the victor at Yorktown; that He who inspired with wisdom the framers of our Constitution; that the God who through long years of civil strife supported those who trod the wine press of his wrath until the bonds of the last slave were broken; that He who from war to peace, from division to unity, from hatred to love, had knit all sections of our country into closer bonds of brotherhood; that He who maketh even the wrath of man to praise Him, would vouchsafe to us the wisdom and courage to meet, arrest, and throttle this slimy monster hatched on foreign soil. [Applause.]

Anarchy lays down as its postulate the declaration, "There is no God." Every schoolhouse on the hill, every church, every benevolent and fraternal organization, every asylum for those feeble in body or mind, every public library and university, every hospital, every impulse of the human heart which finds expression in the ministrations to another's need, thrusts the impious lie back down the throat of anarchy. Every star and every planet, whirling through the long swing and sweep of its orbit, guided by unerring law, gives anarchy the lie. When sun and moon, when earth, stars, and planets shall glow by chance or wander aimlessly through the trackless realms of space, controlled only by individual impulse, then, and not until then, shall law be overthrown and anarchy be crowned the victor. Not until night is fairer and brighter than day; not until vice is more to be revered than virtue; not until might wields the scepter and love of right is banished from the consciences of men; not, indeed, until God shall abdicate His throne shall the monstrous cult of anarchy find acceptance either in the minds of men or in the domination and control of matter. [Applause.]

For years, unchecked, organized bands of assassins have plotted murder in our midst. We were not the victims, and we closed our eyes. For years, unpunished, they perfected plans and carried to successful issue the murder of men and women. We heard lamentations in the house of mourning and stopped our ears. For years men have openly, blatantly, defiantly cried out against law and order, have trampled upon the American flag, and marched under the red banner of anarchy, have openly proclaimed their purpose and conspired to overthrow constituent government, and we have sat supinely, because it was easier to sit than to act. Have we even patted them on the back at times because they had a vote? O Lord, that Thy stern rebuke should come is but just. In our agony of sorrow we cried out in bitterness against Thy decree. Would no other sacrifice suffice? Were no other atonement possible? Upon the altar of sacrifice it must be the lamb without spot or blemish.

For the atonement the one perfect man of all the ages hung upon the tree, and even now, as of old, the strongest and noblest, the fairest and purest, the highest and truest, the foremost and chiefest, has laid his life upon his country's altar. As in Rome, the rent in the forum could be closed only by the gift of the most virtuous man in Rome, so this rent must be closed which would otherwise engulf and destroy society and make mankind as fierce and conscienceless as a pack of hungry wolves, which, when they can devour nothing else, rend and feed upon one another. Was ever more monstrous heresy preached on earth, that brute force may work its savage will upon its weaker neighbor, uncontrolled and uncontrollable, may give license to its passions, regarding neither the rights of man nor the laws of God? Are the monuments which mark the advancing steps of nineteen centuries of Christian civilization to be overthrown?

Are the temples wherein is taught the message of love to God and love to fellow-man to be ravaged and made as lairs of wild beasts? Is society to be organized upon the principle that the man with more brute strength than mine may have unhindered his hand in deadly clutch upon my throat, or I may have my hand at the throat of my weaker brother? Shall no man have the right to the fruits of his own field or his own toil? Is the family tie to be dissolved and humanity sink to levels below the brute creation? Has average man yet attained that sense of justice where each may safely act, prompted alone by the desires of his heart and limited only by the strength of his arm or the cunning of his brain? When shall such monstrous teachings meet rebuke? Shall we wait for other victims, or shall we grapple with this enemy now? Shall we wait for it to grow bolder in its insolence, or hesitate until, with knife and pistol at the breast of every lawmaker,

our courage shall rise to the occasion? The doctrine so openly advocated by these men in our great cities is a menace to every man and woman on every farm and at every fireside in our broad land.

Can it be possible that any member of this House objects to the general features of this bill? My only criticism of it is that it does not reach far enough. When assassination is publicly advocated, either by a Johann Most, an Emma Goldman, or other emissaries of the powers of darkness, shall there be no punishment for them beyond a possible \$500 fine or one year's imprisonment? Shall the criminal who commits the overt act suffer death and the responsible authors of the overt act escape with a fine? Shall we kill the viper and have no redress against those who hatch vipers and place them in the pathways where the feet of humanity must tread?

Shall William McKinley's martyrdom be in vain? No! No! Each drop of his spilled blood calls sternly, not for vengeance, but for justice. Has free speech rights above free action? Is license more than liberty? Shall so-called "freedom of the press" usurp the rights and overthrow the free man? Is treason no longer a cognizable crime? Can the lawbreaker overawe and terrorize the lawmaker? Can men split hairs about States' rights and the rights of anarchists and freedom of speech while the soul of Liberty herself bleeds from gaping wounds? Is God a myth, is self-government a failure? Then let us all cry, "Hoch die anarchie;" forget the virtues of our fathers and prove recreant, not alone to our country, but to our fellow-men and our Creator. Not so. In the strength of our purpose and endowed with the courage of our convictions we will send to anarchy and all her brood the message that Garfield once delivered, when upon the death of Lincoln this nation was plunged in panic and despair, "God reigns, and the Government at Washington still lives."

For the accomplishment of His sovereign purpose God calls one prophet home and lays His mantle upon the shoulders of another. He removes one master workman, but commits to another builder the erection upon broad foundations, after well-defined plans and in symmetrical proportions, the great temple of liberty. He calls one helmsman to higher service, but consigns the wheel to the strong hand, keen eye, clear brain, and stout heart of another pilot, who, in the sunshine and the calm or through the darkness and amid the mad rush of waters, holds in safety upon her steady course our great ship of state, freighted with the aspirations and destinies of 80,000,000 of freemen. In the forefront of conflict one leader falls, but another gathers up the standards of truth and honor and carries them to victory.

William McKinley is no more, but another, possessed of strength of character, with lofty ideals and undaunted courage, pledged to and determined in the execution of the policies of his predecessor, is clothed with the responsibilities of leadership. He is not to be regarded as the president of a faction or party. He is justly entitled to the confidence of every honest American, and stands as the exponent of our national life. And so long as his trumpet tones for guidance give forth no uncertain sound, so long will the patriotic people of America rally to his support, follow his leadership, cheer his heart, and help to lighten the burdens of him who by Providence has been appointed to uphold our national standards, and who in the faithful performance of his duty demonstrates the truth of the statement, "God buries His workmen, but He carries on their work." [Prolonged applause.]

Mr. LANHAM. I now yield to the gentleman from California [Mr. LOUD] such time as he desires.

Mr. CRUMPACKER. Before the gentleman proceeds I should like to submit a request. Mr. Chairman, by an order of the House debate upon this bill was put under the control of the gentleman from New York [Mr. RAY], chairman of the Committee on the Judiciary, and the gentleman from Texas [Mr. LANHAM]. The gentleman from New York supports the bill that the committee reported. The gentleman from Texas, as I understand it, is opposed to any kind of legislation on this subject. This is quite an important measure, and there are a considerable number of members of this committee in favor of some legislation. They believe, however, that the bill reported by the committee ought to have some important modifications; and yet no opportunity is given to that class of membership to present their views, so far as I can see. When it comes to a vote, that may be an important question. I ask, Mr. Chairman, that before the debate closes I may at some time be allowed thirty minutes in which to present my views upon the bill.

The CHAIRMAN. The time is in control of the gentleman from New York and the gentleman from Texas.

Mr. RAY of New York. I have already told the gentleman that if there was time after those who wanted to favor the bill had spoken I would yield to him, and I expect to have the time for him. I object at present, because I told him if I could possibly obtain the time he should have it.

Mr. CRUMPACKER. The gentleman only made his promise conditionally. I thought the committee would consent to thirty

minutes' discussion of the bill from the standpoint that I have suggested.

Mr. RAY of New York. I say to the gentleman that I think I will be able to give him the time to-day, and if the gentleman will be ready I think he can have the time as soon as the other side have used half an hour or so.

Mr. CRUMPACKER. I am ready at any time.

The CHAIRMAN. It is the recollection of the Chair that the arrangement or division of time was made in the House, and if so the Committee of the Whole is powerless, even by unanimous consent, to change that order. The gentleman can rely, doubtless, upon the liberality of the gentlemen to whom the time was assigned.

Mr. CRUMPACKER. Upon the gentleman's statement, I withdraw the request.

Mr. RAY of New York. Mr. Chairman, I should like to say in that connection that there is no purpose on the part either of the gentleman from Texas [Mr. LANHAM] or the gentleman from New York, myself, to interfere with the debate; but when we have promised time to certain gentlemen, either for or against the bill, we can not exactly violate those promises; but I again beg to assure the gentleman that there will undoubtedly be time for him and that it will be yielded to him.

Mr. CRUMPACKER. That is all the assurance I need.

Mr. LANHAM. There is no necessity for hurrying the time in any way. I want every man who wishes to speak on this subject on either side to have an opportunity to do so. We have time to spare.

Mr. LOUD. Mr. Chairman, it is with feelings of great diffidence that I, an ordinary layman, venture to enter upon the discussion of a question that has been argued in this forum by such men and in such a judicial manner that even the spirit of John Marshall would hesitate long before entering the debate, controverting anything that had been said by those eminent jurists, the Judiciary Committee of the House of Representatives. Harder still it is to come back to earth and attempt for a moment to discuss practical questions after the beautiful eulogy delivered by the gentleman from Pennsylvania [Mr. SIBLEY] to the memory of our lamented President, William McKinley. His assassination shocked the whole world. More real sorrow was felt all around this world than has been felt upon the death of any man within the memory of men or recorded in the pages of history.

Well do I remember at the time of his death, I was on the other side of the earth, eleven or twelve thousand miles from here, among a foreign people, there witnessing a real sorrow shown by those people for the man and for the Executive. I was present in the Federated Australian Parliament when that body paused in its labors while one of its ministers paid a most touching tribute to his memory. But, as legislators, we must come back to earth occasionally, because we are called upon to legislate not for to-day only, but for all time to come.

There should not be too great haste in legislation. If I might be permitted to prophesy, I should say that if this legislation should be suspended until next winter it would never be heard of again. I sympathize with the motives and realize as thoroughly as any man that in the sentiment prevalent here at this time men who oppose this measure will, at least for a time, be considered open to suspicion.

If I thought there was a word or line in this bill that would protect the life of the Executive of the nation, I would even accept the rest, if it were bad, if I believed it could possibly in any manner accomplish the object to be sought. Legislative bodies act oftentimes under impulse. It has been stated by several who have addressed this House that there is a substantially universal demand throughout the land that some legislation be enacted to protect the life of the President of the United States. Admit it. A measure was introduced in the Senate; such measure passed that body on the 21st day of March. That measure came to the House, was referred to the Judiciary Committee of this House, and we find that body of gentlemen, three or four months further away from that terrible tragedy, at least entertaining a doubt as to whether we have the right, the constitutional right, to enact this proposed legislation. I am free to say if I were to support either bill I would support the Senate bill, because that bill goes directly at the object sought to be attained. The Senate bill provides:

That any person who shall, within the limits of the United States or any place subject to the jurisdiction thereof, willfully and maliciously kill or cause the death of the President or Vice-President of the United States, or any officer thereof upon whom the powers and duties of the President may devolve under the Constitution and laws, or who shall willfully and maliciously cause the death of the sovereign or chief magistrate of any foreign country, shall be punished with death.

Now, the Judiciary Committee of the House of Representatives, composed of eminent men, as good lawyers, as good jurists, as the eminent body at the other end of the Capitol, substantially say that we have no constitutional right to enact such legislation,

and I think I understand correctly the position of the majority of the Judiciary Committee. At least three months' intervening time has convinced a majority of the Judiciary Committee that we have no constitutional right to provide that any person who maliciously kills the President of the United States shall suffer death.

Mr. RAY of New York. Mr. Chairman—

Mr. LOUD. I do not care to be interrupted, unless it is on this subject.

Mr. RAY of New York. It is on this subject. The gentleman should understand that no man on the Judiciary Committee doubts the power of Congress to enact a law to protect or to make it a criminal offense to kill the President under the conditions and circumstances named in the House bill, that is, when charged with the performance of official duties or killed because of his official character, etc.

Mr. LOUD. That is what I propose to refer to, Mr. Chairman. The Judiciary Committee are evidently of the opinion that we have no constitutional right to provide that a person who maliciously kills the President shall suffer death unless he be in the performance of his official duties at the time.

Mr. RAY of New York. That is, when the offense is committed within a State. The gentleman ought to put that qualification in.

Mr. LOUD. I assume that it is unnecessary to discuss here the question whether it is committed in United States territory.

Mr. RAY of New York. That is right.

Mr. LOUD. I did not suppose anybody was big enough a fool to think that, layman as I am, I would discuss that question if the offense is committed upon the property of this nation.

Now, then, the Committee on the Judiciary say that you can not do that, to quote their language, unless—

while he is engaged in the performance of his official duties or because of his official character or because of his official acts or omissions shall suffer death.

I say again this committee have admitted that unless he is in the performance of his duties that you have no right to enact legislation of this character. So the Judiciary Committee adopt a subterfuge. They say, of course, you can not do this directly, as the Senate have. But in section 18 we have got a presumptive section, which states that at all times and on all occasions the Chief Executive of the nation is engaged in the performance of his duties.

Now, Mr. Chairman, I am very anxious that any person who shall kill the President or the Vice-President shall suffer the penalty of death as expeditiously as possible. I want to say in passing that we have not even a precedent that would demand legislation of this kind, even if such legislation were advisable. No man has ever assassinated a President of the United States that has not met immediate punishment, and no man will, permit me to say, in the United States ever take the life of a Chief Executive without suffering punishment if you let the law alone as it is now.

Mr. NEVIN. Will you yield to a question?

Mr. LOUD. How much time did the gentleman from Texas yield to me?

Mr. LANHAM. You shall have all the time you want.

Mr. NEVIN. In the State of Michigan, for example, it would be impossible—

The CHAIRMAN. The Chair would state to the gentleman from Ohio that he must first address the Chair before seeking to interrupt a member who has the floor.

Mr. NEVIN. Mr. Chairman—

Mr. LOUD. I have heard the gentleman's question, and I yield to him.

Mr. NEVIN. You can not inflict the death penalty.

Mr. LOUD. I shall watch with some care the vote of the Representatives of the State of Michigan, which State has declared solemnly against capital punishment, and as they here represent upon this floor, I must assume, the sentiment of that great sovereign State, I shall watch with care their votes on this measure.

Mr. NEVIN. The same with New Jersey.

Mr. LOUD (continuing). But, however that may be, that is an incidental question. If there is a State in this Union that does not punish by death an offense of this character, why, there is a place that the President of the United States may keep out of. And I suppose he will still perform his duty, but if it becomes necessary for the President of the United States to go into the State of Michigan, I have no doubt but what he can declare martial law there and protect himself if it becomes absolutely necessary; and so that also is an incidental question, unworthy of discussion with the great judicial minds of the Judiciary Committee.

A gentleman gave me this morning some encouragement, however. He said: "You do not suppose for a moment that the provisions of this bill will ever be executed and called into effect?" Well, I never had thought of that phase of the case; but they might be. But still it may be called into effect, and the United

States courts may take jurisdiction, and then they have got to go to another section. First, if you pass the Senate bill against the judgment of this great Judiciary Committee, you have got a provision that is unconstitutional, and the United States courts have jurisdiction, and they try him. He may be acquitted. What then? But, you say, State courts would not lose jurisdiction. I will not attempt to discuss the great question of once in jeopardy, it is wholly unnecessary; a condition of that kind at least, however, would be confusing.

But let us take it under your section 18, where you provide that at all times the President shall be assumed to be in the performance of his duty. Let us suppose, for instance, a case. Take the assassination of President Lincoln at a theater. The assumption is he was in the performance of his duty, as you say. But how are you going to prove it when President Lincoln alone could corroborate that? He is dead. That is the difficulty. The man alone who can prove it has passed away and his lips are sealed forever. President Lincoln might, at the time of his assassination, have been thinking of his public duty, but no other man in the world knew what his mind was thinking of.

Mr. LITTLEFIELD. Mr. Chairman, may I interrupt the gentleman?

Mr. LOUD. Certainly.

Mr. LITTLEFIELD. I make this suggestion. The gentleman from California, without discussing the propriety of the amendment, that if the amendment became a law it would not be necessary for the Government to prove it, because it is presumed as a fact, and it is necessary for the defendant to rebut it.

Mr. LOUD. That is simply an assumption in the case.

Mr. LITTLEFIELD. Yes; but—

Mr. LOUD. When you come to get your proof in rebuttal, where is the evidence?

Mr. LITTLEFIELD. That is for the defendant, and so it does not bother the Government.

Mr. LOUD. But he can not show—

Mr. LITTLEFIELD. If he can not show it he is there, and he is convicted. The practical effect of the section is that the Government does not have to prove it. The respondent must rebut it, and if he can not rebut it he is convicted.

Mr. LOUD. Then, if the construction placed upon it by the gentleman from Maine be correct, it is wise legislation. Let me say that your names will go down in the history as wise jurists, as wise framers of law, in providing an impossibility.

Mr. LITTLEFIELD. I could go further and show that this is by no means unprecedented; I could give you a lot of State legislation in that line.

Mr. LOUD. I do not think there is anything unprecedented. I believe the case of the Field decision has been discussed as a precedent having some, or believed to have some bearing upon this subject of the protection of the President, and that matter has been determined. What matter has been determined? Simply that the court in this instance have protected themselves. That is all; and there is no court on the face of this earth but what will protect themselves. The judge and jurist is human after he goes on the bench, and the dignity of the bench, the dignity of the jurist, must at all times be maintained.

Here is a case where it was assumed that a gentleman in the State of California had attempted the life of Justice Field. I do not care to discuss the merits of that question. It was believed that if that deputy marshal was tried in the county where the offense was committed, that he would have been hung for murder, and the United States court, in order to protect themselves and its dignity, as it has many a time before, issued orders and mandates that, if applied to anyone else, would be in defiance of all constitutional or statutory law. So you will have precedents everywhere, not always exactly applicable, however, to that case.

Mr. LANHAM. If the gentleman will pardon me, is it not a fact that there never was a trial of this man Neagle; that he never was tried by a jury of his countrymen, but was taken away under a writ of habeas corpus from the State of California, and never was brought before a jury?

Mr. LOUD. Yes. Oh, well, I think if a man will follow the decisions and the edicts of the court and assume them to be applicable to the facts and the law in another case, he will get decidedly muddled. [Laughter.] The difficulty about this case is that I have great faith in the judgment of my friend from New York [Mr. RAY]—he gets excited a little, once in a while—I listened with some pleasure to him, and I listened with pleasure to the gentleman from Ohio [Mr. NEVIN] and the gentleman from Massachusetts [Mr. POWERS], three of that great committee whom, I believe, substantially agree. I listened to the gentleman from Wisconsin [Mr. JENKINS], and I find he entertains different views from the three gentlemen I have just mentioned. I listened to the gentleman from New Jersey [Mr. PARKER], whom, I find, entertains different views, and I listened to the gentleman from Texas [Mr. LANHAM]; and so I find on the Judiciary

Committee on this great question six members who stand three to three, or three to two and one.

The gentleman from Maine [Mr. LITTLEFIELD] is yet to be heard from. Where he is going to stand on this question I do not know. I saw only one dissent besides that of the gentleman from Texas [Mr. LANHAM], and that comes from the gentleman from Wisconsin [Mr. JENKINS]. I did not see the name of the gentleman from New Jersey attached to the dissenting views. But I think it is an acknowledged fact that 8, or 9, or 10, or 12, or 13 of the Judiciary Committee, after considering this question all winter, have come to the conclusion that the provision of the Senate bill—the first section—is contrary to the Constitution. Do I state the matter correctly?

Mr. RAY of New York. No; the gentleman does not state it correctly. I hope the gentleman from California will allow me the time to answer his question intelligently. I will yield him five minutes additional of my time, although I do not expect myself to occupy that much.

Mr. LOUD. Very well.

Mr. RAY of New York. The Judiciary Committee, after thorough investigation, became satisfied—many of them absolutely and some of them in great doubt—as to the constitutionality of the first section of the Senate bill, and in the report the chairman of the Judiciary Committee said that that section of the bill was unconstitutional if the Supreme Court should ever hold that there is a time when the President can not be said to be engaged in the performance of his official duties—not of an official act, but charged with the performance of duties. All the members of the Judiciary Committee, with three exceptions—three or four—agreed to that proposition. The gentleman from Wisconsin [Mr. JENKINS] and the gentleman from New Jersey [Mr. PARKER] differ, because they say that we have the constitutional right to pass that section of the Senate bill, and that it makes no difference whether the President is engaged in the performance of his official duties or not; that he is an officer of the Government, and that therefore it is within the jurisdiction of the Congress of the United States to protect him by law and to punish all attacks upon him.

Now, the gentleman from Texas [Mr. LANHAM] and some other members of the committee, while admitting the constitutionality in their judgment of the bill reported by the House committee, and while denying the constitutionality of the Senate bill, take the ground emphatically, as I understand the gentleman from California does—although I do not know exactly what his position is, and certainly do not mean to misrepresent him—they take the ground that even if Congress has the power to enact the House bill into law, such action will be unwise and unnecessary for the reason that there is ample power in the States to punish the offenses described when committed within the States, and that we already have a law of the United States covering the offenses when committed in the District of Columbia or in the Territories. I ask the gentleman from Texas whether I have correctly stated his position?

Mr. LANHAM. Substantially so, so far as I am concerned. I stated in the views submitted when the bill was originally reported that it was possible, by the ingenious use of language framed to meet a supposititious case, to construct a bill which would be constitutional upon its face and thus confer jurisdiction upon the Federal courts to enter within the territorial boundaries of a State and try offenders for crimes cognizable in the State courts. In other words, I held that by a careful use of language it was possible to make this bill constitutional, and I have not yet assailed the bill on the ground of unconstitutionality.

Mr. RAY of New York. And none of your colleagues took the ground in the Judiciary Committee that it was unconstitutional as now framed?

Mr. LANHAM. I think not.

Mr. LITTLEFIELD. But they did take the ground that the Senate bill was unconstitutional?

Mr. RAY of New York. They did.

Mr. LANHAM. I was not present when the Senate bill was considered by the Judiciary Committee.

Mr. RAY of New York. The gentleman from Kentucky [Mr. SMITH] knows the fact to be as I have stated.

Mr. SMITH of Kentucky. I believe the opinion was universal among the members of the committee that the Senate bill was unconstitutional.

Mr. LOUD. I am glad that the remarks of the gentleman from New York [Mr. RAY] and the gentleman from Texas [Mr. LANHAM] and the gentleman from Ohio have gotten into my speech. These explanations present the case exactly as I have understood these gentlemen, though making it a little more clear and concise.

Mr. RAY of New York. I hope the gentleman understands I have no wish to interrupt him or to utter a word during the course of his speech against his will. My only desire is to have a fair presentation of the case.

Mr. LOUD. I think that is right. I think that each gentleman's explanation ought to be before the country. I have no objection to such interruptions. But before I get through I think gentlemen will discover what are my objections to this bill. I am glad to be interrupted. I like to hear from these gentlemen at all times. In fact, I have no objection to an interruption at any time if I have the time to yield. Though sometimes gentlemen say I am loath to yield for interruptions, I have sometimes occupied this floor for three or four hours—pretty good evidence that I do yield for interruptions.

I think, then, that I state the case with substantial correctness when I say that the Judiciary Committee believes that the first section of the Senate bill is unconstitutional.

Mr. RAY of New York. All but two of them.

Mr. LOUD. And the House Committee are seeking to make the bill constitutional by the addition of section 13.

Mr. NEVIN. Oh, no.

Mr. RAY of New York. Not at all.

Mr. LOUD. I yield to the gentleman from New York for an explanation, although I think that after he gets through I shall understand the matter as I do now.

The CHAIRMAN. Does the gentleman from California yield to the gentleman from New York?

Mr. LOUD. Certainly.

Mr. RAY of New York. The gentleman from California has just said that the Judiciary Committee is seeking to make the Senate bill constitutional by the addition of section 13.

Mr. LOUD. In effect, I mean.

Mr. RAY of New York. No; not in effect. That section has nothing whatever to do with the constitutionality of the bill. We make the bill constitutional when we follow the language of the Supreme Court of the United States in determining what the jurisdiction of the Federal Government is. That court says that we have power to define and punish offenses against officers of the Government when those officers are engaged in the performance of their official duties, or when they are assaulted because of their official character, or when they are assaulted because of some official act done or omitted. Therefore we followed the decisions of the Supreme Court, and in the first section by the use of that language seek to make it constitutional. Now, let me speak about the other section, and I think—

Mr. LOUD. I think we agree.

Mr. RAY of New York. I will give the gentleman five minutes more time.

Mr. LOUD. I am more convinced than ever.

Mr. RAY of New York. Now, certain gentlemen objected to the use of those restricting terms. They said it threw a burden of proof on the Government that ought to be on the defendant; that is, the Government ought not to be compelled to prove as a matter of fact that the President was engaged in the performance of his duties. Well, now, I say, and the committee says—that is, the majority—the President is always engaged in the performance of—that is, charged with the discharge of his duty, but to make that claim, to put the burden on the defendant, the criminal, we make a rule of evidence presumptive as a matter of fact on the trial that the President was engaged in the performance of his official duties and leave it to the criminal who slays him to prove as a fact, if he can, that he was not.

Now, just one other word. I want to say this: The Supreme Court has decided that there is a wide distinction between being engaged in the performance of an official act and being engaged in the performance of official duties. A member of Congress here in Washington, going from here to his residence, or taking his dinner, is engaged in the performance of his official duties, but he is not engaged in the performance of an official act, as he is here when engaged in making some of his buncombe speeches or doing some other act, such as voting. I want the gentlemen to understand the distinction between being engaged in the performance of your official duties and being engaged in the performance of an official act.

Mr. LOUD. Then the gentleman in section 13 is attempting to enact a legislative fact?

Mr. RAY of New York. No; a rule of evidence.

Mr. LOUD. I know that the gentleman calls it a rule of evidence, but he is attempting to legislate a fact regarding a condition.

Mr. RAY of New York. No; that is not right.

Mr. LOUD. Now, I think, passing away from that provision, I can show to my mind, if to no one's else, that even the great jurists comprising the committee in the Senate and the House are not infallible. The Senate provides in section 3 that any person who shall aid, abet, advise, or counsel the killing of the President, etc., shall be punished by imprisonment for a term not exceeding twenty years. In section 5 they provide that where he aids or abets by spoken words or by written or printed words, uttered or published, threaten to kill or advise or counsel another